

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Goldman

H.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL POWERS AND DUTIES

SECTION 1.01. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. ~~[(a)]~~ The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2033 ~~[2021]~~.

~~[(b) The review of the commission and department by the Sunset Advisory Commission under this section may not include a review of any program that was transferred to the department on or after September 1, 2016.]~~

SECTION 1.02. Section 51.054, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing ~~[legislation that created the]~~ department operations ~~[and the commission]~~;

1           (2) the programs, functions, rules, and budget of  
2 ~~[operated by]~~ the department;

3           (3) the scope of and limitations on the rulemaking  
4 authority of the commission ~~[role and functions of the department];~~

5           (4) ~~[the rules of the department, with an emphasis on~~  
6 ~~the rules that relate to disciplinary and investigatory authority,~~

7           ~~[(5) the current budget for the department,~~

8           ~~[(6)]~~ the results of the most recent formal audit of  
9 the department;

10          (5) ~~[(7)]~~ the requirements of:

11           (A) laws relating to ~~[the]~~ open meetings, law, ~~[law,~~  
12 ~~Chapter 551, Government Code,~~

13           ~~[(B) the]~~ public information, law, ~~[law, Chapter 552,~~  
14 ~~Government Code,~~

15           ~~[(C) the]~~ administrative procedure, and  
16 disclosing conflicts of interest ~~[law, Chapter 2001, Government~~  
17 ~~Code]; and~~

18           (B) ~~[(D)]~~ other laws applicable to members of a  
19 state policy-making body in performing their duties ~~[relating to~~  
20 ~~public officials, including conflict-of-interest laws]; and~~

21          (6) ~~[(8)]~~ any applicable ethics policies adopted by  
22 the department or the Texas Ethics Commission.

23          (d) The executive director of the department shall create a  
24 training manual that includes the information required by  
25 Subsection (b). The executive director shall distribute a copy of  
26 the training manual annually to each member of the commission. Each  
27 member of the commission shall sign and submit to the executive

1 director a statement acknowledging that the member received and has  
2 reviewed the training manual.

3 SECTION 1.03. Section 51.209, Occupations Code, is amended  
4 by adding Subsections (a-1) and (a-2) to read as follows:

5 (a-1) An advisory board shall meet at the call of the  
6 executive director or the presiding officer of the commission.

7 (a-2) An advisory board may meet by telephone conference  
8 call, videoconference, or other similar telecommunication method,  
9 provided that each portion of the meeting that is required to be  
10 open to the public shall be audible to the public and, in the case of  
11 a meeting held by videoconference, visible to the public. If a  
12 problem occurs that causes a meeting to no longer be visible or  
13 audible to the public as required under this subsection, the  
14 meeting must be recessed until the problem is resolved. If the  
15 problem is not resolved in six hours or less, the meeting must be  
16 adjourned. The face of each participant in a meeting held by  
17 videoconference, while that participant is speaking, must be  
18 clearly visible, and the participant's voice must be audible, to  
19 each other participant and, during the open portion of the meeting,  
20 to the members of the public. A meeting held by telephone  
21 conference call, videoconference, or other similar  
22 telecommunication method is not subject to the requirements of  
23 Sections 551.127(a-3), (b), (c), (e), (f), (h), (i), and (j),  
24 Government Code.

25 SECTION 1.04. Subchapter D, Chapter 51, Occupations Code,  
26 is amended by adding Sections 51.2095 and 51.211 to read as follows:

27 Sec. 51.2095. INTERDISCIPLINARY ADVISORY BOARDS. The

1 executive director or the presiding officer of the commission may  
2 appoint interdisciplinary advisory boards consisting of members  
3 from various businesses, industries, general trades, or  
4 occupations to provide expertise related to a program regulated by  
5 the department.

6 Sec. 51.211. RISK-BASED INSPECTIONS. (a) The department  
7 shall conduct risk-based inspections that prioritize inspections  
8 based on key risk factors identified by the department, including:

9 (1) whether a license holder has previously violated a  
10 law establishing a regulatory program administered by the  
11 department or a rule or order of the commission or executive  
12 director; and

13 (2) the number of violations committed by a license  
14 holder.

15 (b) The department may use alternative inspection methods,  
16 including the use of videoconference technology or other methods  
17 instead of conducting an in-person inspection, in circumstances the  
18 department considers appropriate.

19 SECTION 1.05. Section 51.251, Occupations Code, is amended  
20 by adding Subsection (c) to read as follows:

21 (c) The executive director shall establish methods by which  
22 consumers and service recipients are notified of the name, mailing  
23 address, and telephone number of the department for the purpose of  
24 directing complaints to the department.

25 SECTION 1.06. Section 51.252, Occupations Code, is amended  
26 by amending Subsections (a) and (c) and adding Subsection (b-2) to  
27 read as follows:

(a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition ~~[The executive director shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department shall provide to the person filing the complaint and to each person who is a subject of the complaint information about the department's policies and procedures relating to complaint investigation and resolution].~~

(b-2) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department ~~[, at least quarterly and until final disposition of the complaint,]~~ shall periodically notify the ~~[person filing the]~~ complaint parties ~~[and each person who is a subject of the complaint]~~ of the status of the complaint until final disposition ~~[investigation]~~ unless the notice would jeopardize an ~~[undercover]~~ investigation.

SECTION 1.07. Subchapter E, Chapter 51, Occupations Code, is amended by adding Sections 51.2521 and 51.255 to read as follows:

Sec. 51.2521. COMPLAINT INVESTIGATION. (a) The department shall assign priorities and investigate complaints based on risk to the public of the conduct alleged in the complaint.

1        (b) If the department determines at any time that an  
2 allegation made or formal complaint submitted by a person is  
3 inappropriate or without merit, the department shall dismiss the  
4 complaint.

5        Sec. 51.255. STATISTICAL ANALYSIS OF COMPLAINTS. (a) The  
6 department shall make available on the department's Internet  
7 website a statistical analysis of the complaints received by the  
8 department.

9        (b) The analysis under this section must include aggregate  
10 information on the number, source, type, and disposition of  
11 complaints received during the preceding state fiscal year and must  
12 include, as applicable, the following information for each program  
13 regulated by the department:

14                (1) the number of license holders;

15                (2) the number of complaints received against license  
16 holders;

17                (3) the number of complaints resolved and the manner  
18 in which they were resolved, including:

19                        (A) the number of complaints dismissed and the  
20 reasons for dismissal;

21                        (B) the number of contested cases referred to and  
22 heard by the State Office of Administrative Hearings;

23                        (C) the number of cases appealed to a district  
24 court;

25                        (D) the number of complaints resulting in  
26 disciplinary action, the disciplinary action taken, and whether the  
27 disciplinary action was imposed by an agreed settlement or default

order issued by the executive director or a final order issued by the commission;

(E) a breakdown of the nature of the alleged violations in:

(i) complaints opened for investigation;  
and

(ii) cases that resulted in disciplinary action; and

(F) the number of complaints resolved, categorized by whether the complaint originated from department staff or from the public;

(4) the average time required to resolve a complaint;

(5) the average amount of administrative penalties assessed; and

(6) the number and amount of refunds ordered by the commission or executive director or obtained through an informal resolution.

SECTION 1.08. Section 51.351, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) The department may take action under Section 51.353 for a violation identified during an inspection.

SECTION 1.09. Subchapter G, Chapter 51, Occupations Code, is amended by adding Section 51.359 to read as follows:

Sec. 51.359. REFUND. (a) Subject to Subsection (b), the commission or executive director may order a license holder to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order instead of or in addition to imposing an

1 administrative penalty or sanction.

2 (b) The amount of a refund ordered may not exceed the amount  
3 the consumer paid to the license holder for a service regulated by  
4 the department. The commission or executive director may not  
5 require payment of other damages or estimate harm in a refund order.

6 SECTION 1.10. Section 51.4012(a), Occupations Code, is  
7 amended to read as follows:

8 (a) Notwithstanding any other law, the commission may  
9 determine that a person is not eligible for a license based on the  
10 person's criminal history [~~or other information that indicates that~~  
11 ~~the person lacks the honesty, trustworthiness, and integrity to~~  
12 ~~hold a license issued by the department]~~.

13 SECTION 1.11. Section 51.405, Occupations Code, is amended  
14 to read as follows:

15 Sec. 51.405. CONTINUING EDUCATION. (a) The department  
16 [~~commission~~] shall recognize, prepare, or administer continuing  
17 education programs for license holders. A license holder must  
18 participate in the programs to the extent required by the  
19 commission to keep the person's license.

20 (b) Notwithstanding other law, the commission by rule may:

21 (1) establish a minimum number of hours of continuing  
22 education required for license renewal;

23 (2) provide for the registration and renewal of  
24 continuing education providers and the approval of continuing  
25 education courses; and

26 (3) assess reasonable and necessary fees on continuing  
27 education providers.

1        (c) In adopting rules under this section for a program  
2 regulated by the department, the commission shall consult, if  
3 applicable, with the advisory board established for the program.

4        SECTION 1.12. Subchapter H, Chapter 51, Occupations Code,  
5 is amended by adding Section 51.409 to read as follows:

6        Sec. 51.409. FINANCIAL DISCLOSURE STATEMENT. (a) The  
7 commission by rule may require a person, other than an individual,  
8 applying for a license issued by the department to submit with the  
9 license application a financial disclosure statement. The rules  
10 may require any of the following information to be disclosed based  
11 on the type of license for which the application is submitted:

12                (1) the name of the applicable business entity;

13                (2) the name of each person who has a direct financial  
14 investment in the business;

15                (3) the name of each person, other than an individual,  
16 who:

17                        (A) has a financial investment in the business;

18 and

19                        (B) is not otherwise disclosed under Subdivision  
20 (2);

21                (4) the total amount or percentage of the financial  
22 investment made by each person described by Subdivision (2); and

23                (5) the name of each of the following persons  
24 associated with the business, if the person is not otherwise  
25 disclosed under Subdivision (2) or (3):

26                        (A) a partner;

27                        (B) an officer;

1                   (C) a director;

2                   (D) a managing employee;

3                   (E) an owner or person who controls the owner;

4 and

5                   (F) a person who acts as a controlling person of  
6 the business through the exercise of direct or indirect influence  
7 or control over the management of the business, the expenditure of  
8 money by the business, or a policy of the business, including:

9                   (i) any management company, landlord,  
10 marketing company, or similar person who operates or contracts for  
11 the operation of the business and, if the business is a publicly  
12 traded corporation or is controlled by a publicly traded  
13 corporation, any officer or director of the corporation;

14                   (ii) an individual who has a personal,  
15 familial, or other relationship with an owner, manager, landlord,  
16 tenant, or provider of a business that allows the individual to  
17 exercise actual control of the business; and

18                   (iii) any other person the commission by  
19 rule requires to be included based on the person's exercise of  
20 direct or indirect influence or control other than a shareholder or  
21 lender of the corporation.

22                   (b) The department may deny an application for the issuance  
23 or renewal of a license or may suspend or revoke a license on the  
24 grounds that an applicant or license holder:

25                   (1) fails to disclose a relationship for which  
26 disclosure is required by rules adopted under this section; or

27                   (2) discloses a relationship for which disclosure is

1 required by rules adopted under this section with a person who has  
2 failed to comply with an order of the commission or executive  
3 director.

4 SECTION 1.13. Section 202.505, Occupations Code, is amended  
5 to read as follows:

6 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR  
7 REVOKED. The department may refuse to reinstate a license or to  
8 issue a new license until a podiatrist has passed the regular  
9 license examination if the commission or executive director  
10 suspended or revoked the license for:

11 (1) failure to satisfy continuing education  
12 requirements [~~under Section 202.305~~]; or

13 (2) nonpayment of the license renewal fee.

14 SECTION 1.14. Section 402.305, Occupations Code, is amended  
15 to read as follows:

16 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The  
17 department may renew the license of a license holder who does not  
18 comply with the applicable continuing education requirements [~~of~~  
19 ~~Section 402.303 or 402.304~~] if the license holder:

20 (1) was licensed for the first time during the 24  
21 months before the reporting date; or

22 (2) submits proof from an attending physician that the  
23 license holder suffered a serious or disabling illness or physical  
24 disability that prevented compliance with the continuing education  
25 requirements during the 24 months before the reporting date.

26 SECTION 1.15. Section 802.062(b), Occupations Code, is  
27 amended to read as follows:

1 (b) An ~~[The]~~ inspection by the department must be conducted  
2 during the facility's normal business hours, and the licensed  
3 breeder or a representative of the licensed breeder must be given a  
4 reasonable opportunity to be present during the inspection.

5 SECTION 1.16. Section 1151.1581, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1151.1581. CONTINUING EDUCATION. (a) ~~[The commission  
8 shall recognize, prepare, or administer continuing education  
9 programs for registrants under this chapter.]~~

10 ~~[(b)]~~ The comptroller must review and approve any ~~[all]~~  
11 continuing education programs for registrants.

12 (b) ~~[(c)]~~ ~~A registrant must participate in the programs to  
13 the extent required by the department to keep the person's  
14 certificate of registration.]~~

15 ~~[(d)]~~ ~~The commission may set fees for continuing education  
16 courses and providers of continuing education courses in amounts  
17 reasonable and necessary to cover the department's costs in  
18 administering the department's duties under this section.]~~

19 ~~[(e)]~~ The comptroller may set fees for any continuing  
20 education courses and providers of continuing education courses in  
21 amounts reasonable and necessary to cover the comptroller's costs  
22 in administering the comptroller's duties under this section.

23 (c) ~~[(f)]~~ As part of the continuing education requirements  
24 for a registered professional appraiser who is the chief appraiser  
25 of an appraisal district, the commission by rule shall require the  
26 registrant to complete:

27 (1) at least half of the required hours in a program

devoted to one or more of the topics listed in Section 1151.164(b);  
and

(2) at least two of the required hours in a program of professional ethics specific to the chief appraiser of an appraisal district, including a program on the importance of maintaining the independence of an appraisal office from political pressure.

SECTION 1.17. Section 1152.106, Occupations Code, is amended to read as follows:

Sec. 1152.106. ~~[MEETINGS.]~~ VOTE REQUIRED FOR ACTION. ~~[(a)] The council shall meet at least semiannually at the call of the presiding officer or at the call of a majority of its members.~~

~~[(b)]~~ A decision of the council is not effective unless it receives the affirmative vote of at least four members.

SECTION 1.18. Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106. RENEWAL OF CERTIFICATE. ~~[(a)]~~ To renew a certificate of registration under this chapter, a professional sanitarian must:

(1) pay to the department a renewal fee prescribed by the commission by rule; and

(2) provide proof of completion of any applicable continuing education requirements prescribed by the commission by rule.

SECTION 1.19. Section 1958.104, Occupations Code, is amended to read as follows:

Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The commission shall adopt rules regarding a license application. The

1 commission shall adopt rules that establish minimum requirements  
2 for a license, including:

- 3 (1) the type of license;
- 4 (2) the qualifications for the license, including any  
5 previous training required under Section 1958.106;
- 6 (3) renewal requirements for the license [~~, including~~  
7 ~~ongoing continuing education required under Section 1958.106~~]; and
- 8 (4) liability insurance requirements for the license.

9 SECTION 1.20. Section 1958.106, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1958.106. TRAINING [~~, CONTINUING EDUCATION~~]. (a) The  
12 commission shall adopt rules regarding training required under this  
13 chapter [~~and continuing education required for a license holder~~  
14 ~~under this chapter~~].

15 (b) The rules may include requirements regarding training  
16 [~~and continuing education~~] providers, including rules  
17 establishing:

- 18 (1) accreditation by the department;
- 19 (2) curriculum requirements; and
- 20 (3) qualifications.

21 SECTION 1.21. Section 2308.157, Occupations Code, is  
22 amended to read as follows:

23 Sec. 2308.157. REQUIREMENT FOR INITIAL RENEWAL OF INCIDENT  
24 MANAGEMENT TOWING OPERATOR'S LICENSE [~~CONTINUING EDUCATION~~]. [~~(a)~~  
25 ~~The commission by rule shall recognize, prepare, or administer~~  
26 ~~continuing education programs for license holders. Except as~~  
27 ~~provided by Subsection (c), each license holder must complete a~~

~~continuing education program before the license holder may renew the license holder's license.~~

~~[(b) A person recognized by the commission to offer a continuing education program must:~~

~~[(1) register with the department; and~~

~~[(2) comply with rules adopted by the commission relating to continuing education.~~

~~[(c)] To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to incident management towing that is approved and administered by the department [under this section].~~

SECTION 1.22. Section 2308.159(c), Occupations Code, is amended to read as follows:

(c) A license holder may renew a license issued under this chapter by:

(1) submitting an application on a form prescribed by the executive director;

(2) submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;

(3) paying a renewal fee; and

(4) completing any applicable continuing education requirements ~~[as required by Section 2308.157]~~.

SECTION 1.23. The following provisions are repealed:

(1) Section 1001.058(h), Education Code;

(2) Section 469.053(e), Government Code;

- 1 (3) Section 754.012(d), Health and Safety Code;
- 2 (4) Section 754.0174, Health and Safety Code;
- 3 (5) Section 755.016, Health and Safety Code;
- 4 (6) Section 51.0021, Occupations Code;
- 5 (7) Section 51.252(d), Occupations Code;
- 6 (8) Section 202.305, Occupations Code;
- 7 (9) Section 202.5085, Occupations Code;
- 8 (10) Section 203.304, Occupations Code;
- 9 (11) Section 203.406, Occupations Code;
- 10 (12) Section 401.355, Occupations Code;
- 11 (13) Section 403.152, Occupations Code;
- 12 (14) Section 455.0571, Occupations Code;
- 13 (15) Section 506.105, Occupations Code;
- 14 (16) Section 605.261, Occupations Code;
- 15 (17) Section 701.303, Occupations Code;
- 16 (18) Section 701.512, Occupations Code;
- 17 (19) Section 802.065(e), Occupations Code;
- 18 (20) Section 1302.208(a), Occupations Code;
- 19 (21) Section 1305.055, Occupations Code;
- 20 (22) Section 1901.107(a), Occupations Code;
- 21 (23) Section 1952.1051, Occupations Code;
- 22 (24) Section 1958.056(b), Occupations Code;
- 23 (25) Section 2303.056(b), Occupations Code;
- 24 (26) Section 2308.055, Occupations Code;
- 25 (27) Section 2309.056, Occupations Code; and
- 26 (28) Section 2309.106(a), Occupations Code.

27 SECTION 1.24. (a) Except as provided by Subsection (b) of

1 this section, Section 51.054, Occupations Code, as amended by this  
2 article, applies to a member of the Texas Commission of Licensing  
3 and Regulation appointed before, on, or after the effective date of  
4 this Act.

5 (b) A member of the Texas Commission of Licensing and  
6 Regulation who, before the effective date of this Act, completed  
7 the training program required by Section 51.054, Occupations Code,  
8 as that law existed before the effective date of this Act, is only  
9 required to complete additional training on the subjects added by  
10 this article to the training program required by Section 51.054,  
11 Occupations Code. A member described by this subsection may not  
12 vote, deliberate, or be counted as a member in attendance at a  
13 meeting of the commission held on or after December 1, 2021, until  
14 the member completes the additional training.

15 ARTICLE 2. DEREGULATION

16 SECTION 2.01. The following provisions of the Occupations  
17 Code are repealed:

18 (1) Chapter 1703; and

19 (2) Section 2052.002(11-a).

20 SECTION 2.02. Section 54.0405(d), Family Code, is amended  
21 to read as follows:

22 (d) A polygraph examination required as a condition of  
23 probation under Subsection (a) must be administered by an  
24 individual who is [+]

25 [~~(1)~~] specified by the local juvenile probation  
26 department supervising the child [~~+~~ and

27 [~~(2)~~ licensed as a polygraph examiner under Chapter

1 ~~1703, Occupations Code]~~.

2 SECTION 2.03. Sections 411.0074(c) and (d), Government  
3 Code, are amended to read as follows:

4 (c) The polygraph examination required by this section may  
5 only be administered by a polygraph examiner [~~licensed under~~  
6 ~~Chapter 1703, Occupations Code,~~] who:

7 (1) is a peace officer commissioned by the department;  
8 or

9 (2) has a minimum of two years of experience  
10 conducting preemployment polygraph examinations for a law  
11 enforcement agency.

12 (d) The department and the polygraph examiner shall  
13 maintain the confidentiality of the results of a polygraph  
14 examination administered under this section, except that [+

15 ~~[(1) the department and the polygraph examiner may~~  
16 ~~disclose the results in accordance with Section 1703.306,~~  
17 ~~Occupations Code, and~~

18 ~~[(2) notwithstanding Section 1703.306, Occupations~~  
19 ~~Code,~~] the department may disclose any admission of criminal  
20 conduct made during the course of an examination to another  
21 appropriate governmental entity.

22 SECTION 2.04. Section 245.053(d), Human Resources Code, is  
23 amended to read as follows:

24 (d) A polygraph examination required as a condition of  
25 release under Subsection (a) must be administered by an individual  
26 who is [+

27 ~~[(1)]~~ specified by the department [~~, and~~

1           ~~[(2) licensed as a polygraph examiner under Chapter~~  
2 ~~1703, Occupations Code].~~

3           SECTION 2.05. Section 2052.107, Occupations Code, is  
4 amended to read as follows:

5           Sec. 2052.107. OTHER COMBATIVE SPORTS LICENSES. Unless a  
6 person holds a license or registration issued under this chapter,  
7 the person may not act as a combative sports:

8           (1) professional contestant;

9           (2) manager of a professional contestant;

10          (3) referee; or

11          (4) judge [~~+~~

12          ~~[(5) second,~~

13          ~~[(6) matchmaker, or~~

14          ~~[(7) event coordinator].~~

15          SECTION 2.06. On the effective date of this Act, the  
16 Polygraph Advisory Committee is abolished.

17          SECTION 2.07. On the effective date of this Act, a pending  
18 regulatory action, including a complaint investigation,  
19 disciplinary action, or administrative penalty proceeding, of the  
20 Texas Department of Licensing and Regulation with respect to a  
21 license, permit, or certification issued under a law repealed by  
22 this article, is terminated.

23          SECTION 2.08. On the effective date of this Act, a license,  
24 permit, or certification issued under a law repealed by this  
25 article expires.

26          SECTION 2.09. Not later than January 1, 2023, the Texas  
27 Department of Licensing and Regulation, in consultation with the

1 Auctioneer Advisory Board and the advisory committee established  
2 under Section 1001.058, Education Code, shall study the regulation  
3 of auctioneering and driver training and prepare a report with any  
4 findings and recommendations to improve public safety and the  
5 department's processes and to eliminate inefficiencies, including  
6 any necessary legislative changes. In conducting the study, the  
7 department may consult with any interested organizations,  
8 associations, and stakeholders. The department shall submit the  
9 report to the standing legislative committees with jurisdiction  
10 over the department.

11 ARTICLE 3. BARBERING AND COSMETOLOGY

12 SECTION 3.01. Section 1603.001, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1603.001. GENERAL DEFINITIONS. [~~(a)~~] In this  
15 chapter:

16 (1) "Advisory board" means the Barbering and  
17 Cosmetology Advisory Board.

18 (2) "Commission" means the Texas Commission of  
19 Licensing and Regulation.

20 (3) [~~(2)~~] "Department" means the Texas Department of  
21 Licensing and Regulation.

22 (4) "Establishment" means a place:

23 (A) in which barbering or cosmetology is  
24 practiced; and

25 (B) that is required to hold a license issued  
26 under Subchapter E-2.

27 (5) [~~(3)~~] "Executive director" means the executive

1 director of the department.

2 (6) "Manager" means the person who controls or directs  
3 the business of an establishment or directs the work of a person  
4 employed in an establishment.

5 (7) "School" means a public secondary school, public  
6 postsecondary school, or private postsecondary school:

7 (A) in which barbering or cosmetology is taught;  
8 and

9 (B) that is required to hold a license issued  
10 under Subchapter E-3.

11 ~~[(b) Unless the context clearly indicates otherwise, the~~  
12 ~~definitions in Chapters 1601 and 1602 apply to this chapter.]~~

13 SECTION 3.02. Subchapter A, Chapter 1603, Occupations Code,  
14 is amended by adding Sections 1603.0011, 1603.0012, and 1603.0013  
15 to read as follows:

16 Sec. 1603.0011. PRACTICE OF BARBERING OR COSMETOLOGY. (a)  
17 The practices of barbering and cosmetology consist of performing or  
18 offering to perform for compensation any of the following services:

19 (1) treating a person's hair by:

20 (A) providing any method of treatment as a  
21 primary service, including arranging, beautifying, bleaching,  
22 cleansing, coloring, cutting, dressing, dyeing, processing,  
23 shaping, singeing, straightening, styling, tinting, or waving;

24 (B) providing a necessary service that is  
25 preparatory or ancillary to a service under Paragraph (A),  
26 including bobbing, clipping, cutting, or trimming a person's hair  
27 or shaving a person's neck with a safety razor; or

1           (C) cutting the person's hair as a separate and  
2 independent service for which a charge is directly or indirectly  
3 made separately from charges for any other service;

4           (2) treating a person's mustache or beard by  
5 arranging, beautifying, coloring, processing, styling, trimming,  
6 or shaving with a safety razor;

7           (3) cleansing, stimulating, or massaging a person's  
8 scalp, face, neck, shoulders, or arms:

9           (A) by hand or by using a device, apparatus, or  
10 appliance; and

11           (B) with or without the use of any cosmetic  
12 preparation, antiseptic, tonic, lotion, or cream;

13           (4) beautifying a person's face, neck, shoulders, or  
14 arms using a cosmetic preparation, antiseptic, tonic, lotion,  
15 powder, oil, clay, cream, or appliance;

16           (5) administering facial treatments;

17           (6) removing superfluous hair from a person's body  
18 using depilatories, preparations or chemicals, tweezers, or other  
19 devices or appliances of any kind or description;

20           (7) treating a person's nails by:

21           (A) cutting, trimming, polishing, tinting,  
22 coloring, cleansing, manicuring, or pedicuring; or

23           (B) attaching false nails;

24           (8) massaging, cleansing, treating, or beautifying a  
25 person's hands or feet; or

26           (9) weaving a person's hair by using any method to  
27 attach commercial hair to a person's hair or scalp.

1        (b) In addition to the services described by Subsection (a),  
2 the practice of barbering includes performing or offering to  
3 perform for compensation the service of shaving a person's face,  
4 neck, mustache, or beard with a razor of any type.

5        (c) In addition to the services described by Subsection (a),  
6 the practice of cosmetology includes performing or offering to  
7 perform for compensation the service of applying semipermanent,  
8 thread-like extensions composed of single fibers to a person's  
9 eyelashes.

10       (d) Advertising or representing to the public in any manner  
11 that a person is licensed to perform a barbering or cosmetology  
12 service under this chapter, or that a location or place of business  
13 is an establishment or school, constitutes the practice of  
14 barbering or cosmetology.

15       (e) In this section, "safety razor" means a razor that is  
16 fitted with a guard close to the cutting edge of the razor that is  
17 intended to:

18                (1) prevent the razor from cutting too deeply; and

19                (2) reduce the risk and incidence of accidental cuts.

20       Sec. 1603.0012. SERVICES NOT CONSTITUTING BARBERING OR  
21 COSMETOLOGY. Barbering and cosmetology do not include:

22                (1) threading, which involves removing unwanted hair  
23 from a person by using a piece of thread that is looped around the  
24 hair and pulled to remove the hair and includes the incidental  
25 trimming of eyebrow hair; or

26                (2) servicing a person's wig, toupee, or artificial  
27 hairpiece on a person's head or on a block after the initial retail

1 sale in any manner described by Section 1603.0011(a)(1).

2 Sec. 1603.0013. APPLICATION OF CHAPTER. This chapter does  
3 not apply to a person who:

4 (1) does not represent or advertise to the public  
5 directly or indirectly that the person is authorized by the  
6 department to practice barbering or cosmetology and the person is:

7 (A) licensed in this state to practice medicine,  
8 dentistry, podiatry, chiropractic, or nursing and operating within  
9 the scope of the person's license;

10 (B) a commissioned or authorized medical or  
11 surgical officer of the United States armed forces; or

12 (C) an inmate in the institutional division of  
13 the Texas Department of Criminal Justice who performs barbering or  
14 cosmetology during the person's incarceration;

15 (2) provides a service in an emergency;

16 (3) is in the business of or receives compensation for  
17 makeup applications only;

18 (4) provides a cosmetic service as a volunteer or an  
19 employee performing regular duties at a licensed nursing or  
20 convalescent custodial or personal care home to a patient residing  
21 in the home;

22 (5) owns, operates, or manages a licensed nursing or  
23 convalescent custodial or personal care home that allows a person  
24 with an operator license to perform cosmetic services for patients  
25 residing in the home on an occasional but not daily basis;

26 (6) provides an incidental cosmetic service, or owns,  
27 operates, or manages the location where that service is provided,

1 if the primary purpose of the service is to enable or assist the  
2 recipient of the service to participate as the subject of:

3 (A) a photographic sitting at a permanent  
4 establishment that charges a fee exclusively for a photographic  
5 sitting;

6 (B) a television appearance; or

7 (C) the filming of a motion picture; or

8 (7) performs only natural hair braiding, including  
9 braiding a person's hair, trimming hair extensions only as  
10 applicable to the braiding process, and attaching commercial hair  
11 by braiding and without the use of chemicals or adhesives.

12 SECTION 3.03. Section 1603.002, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1603.002. REGULATION OF BARBERING AND COSMETOLOGY BY  
15 DEPARTMENT OF LICENSING AND REGULATION. The department shall  
16 administer this chapter. This chapter ~~[and Chapters 1601 and 1602.~~  
17 ~~A reference in this chapter to the commission's or department's~~  
18 ~~powers or duties applies only in relation to those chapters, except~~  
19 ~~that this section]~~ does not limit the department's or commission's  
20 general powers under Chapter 51.

21 SECTION 3.04. Subchapter B, Chapter 1603, Occupations Code,  
22 is amended to read as follows:

23 SUBCHAPTER B. ~~[ADVISORY BOARDS FOR]~~ BARBERING AND COSMETOLOGY

24 ADVISORY BOARD

25 Sec. 1603.051. ADVISORY BOARD; MEMBERSHIP. The Barbering  
26 and Cosmetology Advisory Board consists of nine members appointed  
27 by the presiding officer of the commission, with the commission's

approval, as follows:

(1) four members who each hold an individual practitioner license under Subchapter E-1, including:

(A) at least one holder of a Class A barber license; and

(B) at least one holder of a cosmetology operator license;

(2) two members who each hold an establishment license;

(3) two members who each hold a school license; and

(4) one member who represents the public.

Sec. 1603.052. DUTIES OF ADVISORY BOARD. (a) The advisory board ~~[boards established under Chapters 1601 and 1602]~~ shall advise the commission and the department on:

(1) education and curricula for applicants;

(2) the content of examinations;

(3) proposed rules and standards on technical issues related to barbering and cosmetology; and

(4) other issues affecting ~~[administering this chapter and Chapters 1601 and 1602 regarding]~~ barbering and ~~[or]~~ cosmetology ~~[, as applicable].~~

(b) The advisory board shall respond to questions from the commission and the department regarding barbering and cosmetology.

Sec. 1603.053. TERMS; VACANCY. (a) Members of the advisory board serve staggered six-year terms, with the terms of three members expiring January 31 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the

presiding officer of the commission, with the commission's approval, shall appoint a replacement to fill the unexpired term.

Sec. 1603.054. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as the presiding officer of the advisory board for a term of two years.

SECTION 3.05. Section 1603.101, Occupations Code, is amended to read as follows:

Sec. 1603.101. RULES. The commission shall adopt rules consistent with this chapter for[÷

~~[(1)]~~ the administration of this chapter and the operations of the department in regulating barbering and cosmetology[÷and

~~[(2) the administration of Chapters 1601 and 1602].~~

SECTION 3.06. Section 1603.103(a), Occupations Code, is amended to read as follows:

(a) Until the department determines, by inspection, that the person has established the school in compliance with this chapter, ~~[Chapter 1601, or Chapter 1602,~~ a person may not operate a school licensed ~~[or permitted]~~ under this chapter~~[÷Chapter 1601, or Chapter 1602].~~

SECTION 3.07. The heading to Section 1603.104, Occupations Code, is amended to read as follows:

Sec. 1603.104. ~~[PERIODIC]~~ INSPECTIONS.

SECTION 3.08. Sections 1603.104(a) and (d), Occupations Code, are amended to read as follows:

(a) The department may enter and inspect at any time during

business hours:

(1) the place of business of any person regulated under this chapter~~[, Chapter 1601, or Chapter 1602]~~; or

(2) any place in which the department has reasonable cause to believe that a ~~[certificate,~~ license~~]~~ or permit holder is practicing in violation of this chapter~~[, Chapter 1601, or Chapter 1602]~~ or in violation of a rule or order of the commission or executive director.

(d) An inspector who discovers a violation of this chapter~~[, Chapter 1601, or Chapter 1602]~~ or of a rule or order of the commission or executive director shall~~+~~

~~[(1)]~~ provide written notice of the violation to the license~~[, certificate,~~ or permit holder on a form prescribed by the department~~[, and~~

~~[(2) file a complaint with the executive director].~~

SECTION 3.09. Section 1603.1045, Occupations Code, is amended to read as follows:

Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department inspections of a school or establishment ~~[, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602]~~.

SECTION 3.10. Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.106 to read as follows:

Sec. 1603.106. CERTAIN BUILDING AND FACILITY STANDARDS PROHIBITED. The commission may not establish building or facility standards for a school that are not related to health and safety, including a requirement that a building or facility of the school

1 have a specific:

2 (1) square footage of floor space;

3 (2) number of chairs; or

4 (3) number of sinks.

5 SECTION 3.11. Section 1603.151, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1603.151. NOTIFICATION OF PUBLIC INTEREST INFORMATION  
8 AND PARTICIPATION. The commission by rule shall establish methods  
9 by which consumers and service recipients are notified of the name,  
10 mailing address, and telephone number of the department for the  
11 purpose of directing complaints to the department regarding  
12 barbering and cosmetology. The department may provide for that  
13 notice:

14 (1) on each registration form, application, or written  
15 contract for services of a person regulated under this chapter[~~7~~  
16 ~~Chapter 1601, or Chapter 1602~~];

17 (2) on a sign prominently displayed in the place of  
18 business of each person regulated under this chapter[~~7~~ ~~Chapter~~  
19 ~~1601, or Chapter 1602~~]; or

20 (3) in a bill for service provided by a person  
21 regulated under this chapter[~~7~~ ~~Chapter 1601, or Chapter 1602~~].

22 SECTION 3.12. The heading to Subchapter E, Chapter 1603,  
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER E. GENERAL [~~CERTIFICATE~~] LICENSE[~~7~~] AND PERMIT  
25 PROVISIONS [~~REQUIREMENTS~~]

26 SECTION 3.13. Subchapter E, Chapter 1603, Occupations Code,  
27 is amended by adding Section 1603.2001 to read as follows:

Sec. 1603.2001. RULES FOR ISSUANCE OF LICENSE OR PERMIT.

(a) The commission by rule shall establish requirements for the issuance of:

(1) a license for an individual practitioner, instructor, establishment, or school; and

(2) a student permit.

(b) Requirements established by the commission under Subsection (a) for an individual practitioner or instructor may include requirements regarding an applicant's:

(1) minimum age;

(2) education level; and

(3) completed hours of instruction.

(c) In establishing a requirement under this section for the issuance of a license, the commission shall consider whether the requirement is the least restrictive requirement possible to ensure public safety without creating a barrier to entry into the licensed occupation.

(d) Requirements established under this section:

(1) for an individual practitioner specialty license may not be more stringent than requirements for a Class A barber license or a cosmetology operator license; and

(2) for a specialty establishment license may not be more stringent than requirements for an establishment license.

(e) The commission, as appropriate, may establish standardized requirements within license categories.

SECTION 3.14. Sections 1603.201 and 1603.202, Occupations Code, are amended to read as follows:

1           Sec. 1603.201. APPLICATION FORM. An application for a  
2 ~~[certificate]~~ license~~[7]~~ or permit under this chapter must be made  
3 on a form prescribed ~~[and provided]~~ by the department.

4           Sec. 1603.202. DUPLICATE ~~[CERTIFICATE]~~ LICENSE~~[7]~~ OR  
5 PERMIT. The department shall issue a duplicate ~~[certificate]~~  
6 license~~[7]~~ or permit to an applicant who:

7                   (1) submits an application for a duplicate  
8 ~~[certificate]~~ license~~[7]~~ or permit to the department; and

9                   (2) pays the required fee.

10          SECTION 3.15. Subchapter E, Chapter 1603, Occupations Code,  
11 is amended by adding Section 1603.2025 to read as follows:

12          Sec. 1603.2025. TEMPORARY LICENSE. (a) The department may  
13 issue a temporary license.

14          (b) The commission by rule may establish requirements for  
15 the issuance of a temporary license.

16          (c) A temporary license expires on the 60th day after the  
17 date the license is issued. A temporary license may not be renewed.

18          SECTION 3.16. Sections 1603.203 and 1603.204, Occupations  
19 Code, are amended to read as follows:

20          Sec. 1603.203. PROVISIONAL ~~[CERTIFICATE OR]~~ LICENSE. (a)  
21 The department may issue a provisional ~~[certificate or]~~ license to  
22 an applicant currently licensed in another jurisdiction who seeks a  
23 ~~[certificate or]~~ license in this state and who:

24                   (1) has been licensed in good standing in the  
25 profession for which the person seeks the ~~[certificate or]~~ license  
26 for at least two years in another jurisdiction, including a foreign  
27 country, that has requirements substantially equivalent to the

requirements of this chapter [~~, Chapter 1601, or Chapter 1602, as~~  
appropriate]; and

(2) has passed a national or other examination  
recognized by the department [~~commission~~] relating to the practice  
of that profession.

(b) A provisional [~~certificate or~~] license is valid until  
the date the department approves or denies the provisional  
[~~certificate or~~] license holder's application. The department  
shall issue a [~~certificate or~~] license to the provisional  
[~~certificate or~~] license holder if:

(1) the provisional [~~certificate or~~] license holder is  
eligible to hold a [~~certificate or~~] license under this chapter  
[~~Chapter 1601 or Chapter 1602~~]; or

(2) the provisional [~~certificate or~~] license holder  
passes the part of the examination [~~under Chapter 1601 or Chapter~~  
~~1602~~] that relates to the applicant's knowledge and understanding  
of the laws and rules relating to the practice of the profession in  
this state and:

(A) the department verifies that the provisional  
[~~certificate or~~] license holder meets the education [~~academic~~] and  
experience requirements for the [~~certificate or~~] license; and

(B) the provisional [~~certificate or~~] license  
holder satisfies any other [~~certificate or~~] license requirements.

(c) The department must approve or deny a provisional  
[~~certificate or~~] license holder's application for a [~~certificate~~  
~~or~~] license not later than the 180th day after the date the  
provisional [~~certificate or~~] license is issued. The department may

1 extend the 180-day period if the results of an examination have not  
2 been received by the department before the end of that period.

3       Sec. 1603.204. SUBSTANTIALLY EQUIVALENT [~~RECIPROCAL~~  
4 ~~CERTIFICATE,~~] LICENSE[~~, OR PERMIT~~]. (a) A person who holds a  
5 license[~~, certificate, or permit~~] to practice barbering or  
6 cosmetology from another state or country that has standards or  
7 work experience requirements that are substantially equivalent to  
8 the requirements of this chapter [~~, Chapter 1601, or Chapter 1602~~]  
9 may apply for a license[~~, certificate, or permit~~] to perform the  
10 same acts of barbering or cosmetology in this state that the person  
11 practiced in the other state or country.

12       (b) The person must:

13               (1) submit an application for the license[~~,~~  
14 ~~certificate, or permit~~] to the department; and

15               (2) pay fees in an amount prescribed by the  
16 commission, including any applicable license[~~, certificate, or~~  
17 ~~permit~~] fee.

18       (c) A person issued a license[~~, certificate, or permit~~]  
19 under this section:

20               (1) may perform the acts of barbering or cosmetology  
21 authorized by [~~stated on~~] the license[~~, certificate, or permit~~];  
22 and

23               (2) is subject to the renewal procedures and fees  
24 provided in this chapter [~~, Chapter 1601, or Chapter 1602~~] for the  
25 performance of those acts of barbering or cosmetology.

26       SECTION 3.17. Sections 1603.208(a)(2) and (3), Occupations  
27 Code, are amended to read as follows:

(2) "Digitally prearranged remote service" means a barbering or cosmetology service performed for compensation by a person holding a license~~[, certificate of registration, or permit]~~ under Subchapter E-1 ~~[Chapter 1601 or 1602 or this chapter]~~ that is:

(A) prearranged through a digital network; and

(B) performed at a location other than an establishment ~~[a place of business that is]~~ licensed ~~[or permitted]~~ under Subchapter E-2 ~~[Chapter 1601 or 1602 or this chapter]~~.

(3) "Remote service business" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a client to schedule a digitally prearranged remote service with a person holding a license~~[, certificate of registration, or permit]~~ under Subchapter E-1 ~~[Chapter 1601 or 1602 or this chapter]~~.

SECTION 3.18. Sections 1603.208(c), (d), (f), (g), and (i), Occupations Code, are amended to read as follows:

(c) Sections 1603.2110 and 1603.2111 ~~[1601.453, 1601.455, 1602.251(c), and 1602.407]~~ do not apply to a digitally prearranged remote service scheduled through a remote service business.

(d) A person who holds a license~~[, certificate of registration, or permit]~~ to practice barbering or cosmetology and who performs a digitally prearranged remote service shall:

(1) comply with this section and the rules adopted under this section; and

(2) practice within the scope of the person's license~~[, certificate of registration, or permit]~~.

(f) Before a person licensed~~[, registered, or permitted]~~ to

1 practice barbering or cosmetology performs a digitally prearranged  
2 remote service for a client requesting the service, a remote  
3 service business must ~~[shall]~~ provide through the entity's digital  
4 network:

5 (1) the following information regarding the person who  
6 will perform the service:

7 (A) the person's first and last name;

8 (B) the ~~[number of the]~~ person's license number ~~[7~~  
9 ~~certificate of registration, or permit, as applicable]~~; and

10 (C) a photograph of the person;

11 (2) the following information regarding the business:

12 (A) Internet website address; and

13 (B) telephone number; and

14 (3) the department's Internet website address and  
15 telephone number and notice that the client may contact the  
16 department to file a complaint against the business or person.

17 (g) Within a reasonable time after completion of a digitally  
18 prearranged remote service, the remote service business shall issue  
19 to the client who requested the service a receipt that includes:

20 (1) the date the service was provided;

21 (2) a description of the service;

22 (3) the first and last name of the person who performed  
23 the service;

24 (4) the ~~[number of the]~~ person's license number ~~[7~~  
25 ~~certificate of registration, or permit, as applicable]~~;

26 (5) the following information regarding the business:

27 (A) Internet website address; and

(B) telephone number; and

(6) the department's Internet website address and telephone number and notice that the client may contact the department to file a complaint against the business or person.

(i) A remote service business shall terminate a person's access to the business's digital network if the business or department determines the person violated:

(1) this chapter; or

(2) a rule adopted under this chapter[+]

~~[(3) Chapter 1601 or 1602; or~~

~~[(4) a rule adopted under Chapter 1601 or 1602].~~

SECTION 3.19. Subchapter E, Chapter 1603, Occupations Code, is amended by adding Section 1603.209 to read as follows:

Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A person holding a license or permit issued under Subchapter E-1 may not perform any practice of barbering or cosmetology if the person knows the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(b) A person holding an establishment or school license may not employ a person to perform any practice of barbering or cosmetology or to instruct in the practice of barbering or cosmetology if the license holder knows that the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

SECTION 3.20. Chapter 1603, Occupations Code, is amended by adding Subchapters E-1, E-2, and E-3 to read as follows:

SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER AND INSTRUCTOR LICENSES;  
STUDENT PERMIT; PRACTICE

Sec. 1603.2101. INDIVIDUAL PRACTITIONER LICENSE OR STUDENT PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED.

(a) A person may not perform or offer or attempt to perform any act of barbering or cosmetology unless the person holds a license or permit issued under this subchapter to perform that act.

(b) Unless the person holds an appropriate license issued under this subchapter, a person may not directly or indirectly use or cause to be used as a professional or business identification, title, name, representation, asset, or means of advantage or benefit:

- (1) the term "barber" or "barbering";
- (2) the term "cosmetologist" or "cosmetology"; or
- (3) any combination, variation, or abbreviation of the terms listed in Subdivisions (1) and (2).

Sec. 1603.2102. ISSUANCE OF INDIVIDUAL PRACTITIONER LICENSE. The department shall issue an individual practitioner license to an applicant who:

- (1) meets the applicable eligibility requirements;
- (2) passes the applicable examination;
- (3) pays the required fee;
- (4) has not committed an act that constitutes a ground for denial of the license; and
- (5) submits an application on a form prescribed by the

1 department.

2 Sec. 1603.2103. INDIVIDUAL PRACTITIONER LICENSES. (a) A  
3 person holding:

4 (1) a Class A barber license may perform any barbering  
5 service;

6 (2) a cosmetology operator license may perform any  
7 cosmetology service;

8 (3) a manicurist license may perform any service  
9 described by Section 1603.0011(a)(7) or (8);

10 (4) an esthetician license may perform any service  
11 described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);

12 (5) a manicurist/esthetician license may perform any  
13 service described by Section 1603.0011(a)(3), (4), (5), (6), (7),  
14 or (8) or (c);

15 (6) a hair weaving specialist license may perform any  
16 service described by Section 1603.0011(a)(9);

17 (7) a hair weaving specialist/esthetician license may  
18 perform any service described by Section 1603.0011(a)(3), (4), (5),  
19 (6), or (9) or (c); and

20 (8) an eyelash extension specialist license may  
21 perform any service described by Section 1603.0011(c).

22 (b) The commission by rule shall provide for the issuance  
23 of:

24 (1) a Class A barber license to a person who holds a  
25 cosmetology operator license; and

26 (2) a cosmetology operator license to a person who  
27 holds a Class A barber license.

1       Sec. 1603.2104. INSTRUCTOR LICENSE REQUIRED. (a) A person  
2 may not teach or offer or attempt to teach any act of barbering or  
3 cosmetology unless the person holds an instructor license issued  
4 under this subchapter to perform that act.

5       (b) A person holding an instructor license may perform any  
6 act of barbering or cosmetology authorized by the license and may  
7 instruct a person in any act of barbering or cosmetology authorized  
8 by the license.

9       Sec. 1603.2105. ISSUANCE OF INSTRUCTOR LICENSE. (a) The  
10 department shall issue an instructor license to an applicant who:

11               (1) meets the applicable eligibility requirements;

12               (2) has completed:

13                       (A) a course consisting of at least 750 hours of  
14 instruction in barbering or cosmetology courses and methods of  
15 teaching in a barber or cosmetology school; or

16                       (B) at least one year of work experience as the  
17 holder of a Class A barber license or cosmetology operator license  
18 and:

19                               (i) has completed 500 hours of instruction  
20 in barbering or cosmetology courses and methods of teaching in a  
21 commission-approved training program;

22                               (ii) has completed 15 semester hours in  
23 education courses from an accredited college or university in the  
24 10-year period preceding the date of the application; or

25                               (iii) has a degree in education from an  
26 accredited college or university;

27               (3) passes the applicable examination;

1           (4) pays the required fee;  
2           (5) has not committed an act that constitutes a ground  
3 for denial of the license; and  
4           (6) submits an application on a form prescribed by the  
5 department.

6           (b) The commission shall adopt rules for the licensing of  
7 specialty instructors to teach specialty courses in the practice of  
8 barbering or cosmetology.

9           Sec. 1603.2106. WAIVER OF CERTAIN LICENSE REQUIREMENTS.

10          (a) The department may waive any requirement for a license issued  
11 under this subchapter for an applicant holding a license from  
12 another jurisdiction that has license requirements substantially  
13 equivalent to those of this state.

14          (b) The department shall issue a license to an applicant  
15 under Subsection (a) if the applicant:

16               (1) submits an application on a form prescribed by the  
17 department;

18               (2) pays the application fee; and

19               (3) provides proof that the applicant holds a current  
20 license to engage in the same or a similar activity issued by  
21 another jurisdiction that has license requirements substantially  
22 equivalent to those of this state.

23          (c) The department may not require a personal interview as  
24 part of the application process under this section.

25          (d) A license issued under this section may be renewed as  
26 provided by Subchapter G.

27          Sec. 1603.2107. STUDENT PERMIT. (a) A student enrolled in

1 a school licensed under Subchapter E-3 must hold a permit stating  
2 the student's name and the name of the school.

3 (b) The department shall issue a student permit to an  
4 applicant who submits an application to the department for a  
5 student permit accompanied by the required fee.

6 (c) A separate application is required for each enrollment.  
7 The application fee applies only to the first enrollment. The  
8 department may not charge the application fee for any later  
9 enrollment.

10 Sec. 1603.2108. TRANSFER OF LICENSE OR PERMIT PROHIBITED.  
11 A license or permit issued under this subchapter is not  
12 transferable.

13 Sec. 1603.2109. DISPLAY OF LICENSE OR PERMIT. (a) The  
14 holder of a license issued under this subchapter shall:

15 (1) display the original license and an attached  
16 photograph of the license holder in a conspicuous place near the  
17 license holder's work chair in the establishment in which the  
18 holder is working; or

19 (2) make available at the reception desk of the  
20 establishment in which the holder is working, in the manner  
21 prescribed by the department:

22 (A) the original license and an attached  
23 photograph of the license holder; or

24 (B) a digital image of the license and photograph  
25 of the license holder.

26 (b) The holder of a student permit issued under this  
27 subchapter shall display the permit in a reasonable manner at the

1 school in which the permit holder is enrolled.

2 Sec. 1603.2110. LOCATION OF PRACTICE. A person holding a  
3 license or permit issued under this subchapter may practice  
4 barbering or cosmetology only at a licensed establishment or  
5 school.

6 Sec. 1603.2111. SERVICE AT UNLICENSED LOCATION. (a) In  
7 this section, "licensed facility" means:

8 (1) an establishment licensed under Subchapter E-2; or

9 (2) a school licensed under Subchapter E-3.

10 (b) A person holding a license under this subchapter may  
11 perform a service within the scope of the license at a location  
12 other than a licensed facility for a client:

13 (1) who, because of illness or physical or mental  
14 incapacitation, is unable to receive the service at a licensed  
15 facility; or

16 (2) in preparation for and at the location of a special  
17 event, including a wedding.

18 (c) An appointment for a service performed under this  
19 section must be made through a licensed facility.

20 SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

21 Sec. 1603.2201. LICENSE REQUIRED. (a) A person may not  
22 own, operate, or manage an establishment in which an act of  
23 barbering or cosmetology is practiced unless the person holds a  
24 license issued under this subchapter to operate the establishment.

25 (b) A person may not lease space on the premises of a  
26 licensed establishment to engage in the practice of barbering or  
27 cosmetology as an independent contractor unless the person holds a

license issued under Subchapter E-1.

Sec. 1603.2202. ISSUANCE OF LICENSE. The department shall issue the applicable establishment license under this subchapter to an applicant if:

(1) the applicant:

(A) owns or rents the establishment;

(B) verifies the application;

(C) complies with the application requirements of this chapter;

(D) pays the required inspection and license fees; and

(E) has not committed an act that constitutes a ground for denial of a license; and

(2) the establishment:

(A) meets the commission's minimum health standards for an establishment; and

(B) complies with all commission rules.

Sec. 1603.2203. ESTABLISHMENT LICENSES. (a) An establishment licensed as:

(1) an establishment may provide any barbering or cosmetology service;

(2) a manicurist specialty establishment may provide any service described by Section 1603.0011(a)(7) or (8);

(3) an esthetician specialty establishment may provide any service described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);

(4) a manicurist/esthetician specialty establishment

1 may provide any service described by Section 1603.0011(a)(3), (4),  
2 (5), (6), (7), or (8) or (c);

3 (5) a hair weaving specialty establishment may provide  
4 any service described by Section 1603.0011(a)(9);

5 (6) an eyelash extension specialty establishment may  
6 provide any service described by Section 1603.0011(c);

7 (7) a mini-establishment may provide any barbering or  
8 cosmetology service; and

9 (8) a mobile establishment may provide any barbering  
10 or cosmetology service.

11 (b) In this section:

12 (1) "Mini-establishment" includes a room or suite of  
13 rooms that is one of a number of connected establishments in a  
14 single premises that open onto a common hallway or another  
15 configuration of operations as authorized by the department in  
16 which a person practices under a license issued under Subchapter  
17 E-1.

18 (2) "Mobile establishment" means a facility that is  
19 readily movable and where barbering, cosmetology, or both are  
20 practiced other than at a fixed location.

21 Sec. 1603.2204. TRANSFER OF LICENSE PROHIBITED. A license  
22 issued under this subchapter is not transferable.

23 Sec. 1603.2205. USE OF ESTABLISHMENT AS SLEEPING QUARTERS  
24 PROHIBITED. (a) An owner or manager of a licensed establishment  
25 may not permit a person to sleep in a room used as part of the  
26 establishment.

27 (b) A person may not perform an act for which a license is

required in a room in an establishment that is used as sleeping quarters.

SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

Sec. 1603.2301. LICENSE REQUIRED. A person may not operate a school for instruction in the practice of barbering or cosmetology unless the person holds a license issued under this subchapter to operate the school.

Sec. 1603.2302. ISSUANCE OF LICENSE. The department shall issue a license under this subchapter to an applicant who, as applicable:

(1) submits an application on a form prescribed by the department;

(2) pays the required fee;

(3) provides to the department adequate proof of financial responsibility;

(4) meets the health and safety standards established by the commission; and

(5) satisfies any other requirements of this chapter or commission rule.

Sec. 1603.2303. SCHOOL LICENSES; INSTRUCTORS; ENFORCEMENT.

(a) The holder of a public secondary school license, public postsecondary school license, or private postsecondary school license:

(1) may provide instruction in the barbering or cosmetology services for which the license holder has been approved by the department; and

(2) may only employ to provide the instruction

1 described by Subdivision (1) a person who holds an instructor  
2 license issued under Subchapter E-1 to teach the acts of barbering  
3 or cosmetology for which the person will provide instruction.

4 (b) The department may take any disciplinary or other  
5 enforcement action against a person who violates Subsection (a)(2).

6 Sec. 1603.2304. CHANGE OF SCHOOL OWNERSHIP OR LOCATION.

7 (a) If a licensed school changes ownership:

8 (1) the outgoing owner shall notify the department of  
9 the change not later than the 10th day before the date the change  
10 takes effect; and

11 (2) the new owner shall obtain a license under this  
12 subchapter in accordance with commission rule.

13 (b) A school may not change the location of the school  
14 unless the school obtains approval from the department before the  
15 change by showing that the proposed location meets the requirements  
16 of this chapter and commission rules.

17 Sec. 1603.2305. SIGNS REQUIRED. The holder of a school  
18 license shall place a sign on the front outside portion of the  
19 school's building in a prominent place that reads "SCHOOL--STUDENT  
20 PRACTITIONERS" in:

21 (1) at least 10-inch block letters; or

22 (2) a manner prescribed by the department.

23 Sec. 1603.2306. INFORMATION PROVIDED TO PROSPECTIVE  
24 STUDENT. The holder of a school license shall provide to each  
25 prospective student, as applicable:

26 (1) a course outline;

27 (2) a schedule of the tuition and other fees assessed;

1           (3) the school's refund policy required under Section  
2 1603.3602;

3           (4) the school's grading policy and rules relating to  
4 incomplete grades;

5           (5) the school's rules of operation and conduct,  
6 including rules relating to absences;

7           (6) the department's name, mailing address, and  
8 telephone number for the purpose of directing complaints to the  
9 department; and

10          (7) the current job placement rates and employment  
11 rates of students who complete a course of instruction.

12          Sec. 1603.2307. COURSE LENGTH AND CURRICULUM CONTENT. (a)  
13 A school shall design course length and curriculum content to  
14 reasonably ensure that a student develops the job skills and  
15 knowledge necessary for employment.

16          (b) A school must submit to the department for approval the  
17 course length and curriculum content for each course offered by the  
18 school. The school may not implement a course length and curriculum  
19 content without the approval of the department.

20          (c) Before issuing or renewing a license under this  
21 subchapter, the department must require the school to account for  
22 each course length and curriculum content.

23          Sec. 1603.2308. REQUIRED COURSES. (a) A school shall  
24 instruct students in the theory and practice of subjects necessary  
25 and beneficial to the practice of barbering and cosmetology.

26          (b) The commission by rule shall establish the subjects in  
27 which students shall receive instruction.

1        (c) A school may not increase, decrease, or withhold for any  
2 reason the number of hours earned by a student.

3        Sec. 1603.2309. DAILY ATTENDANCE RECORDS. (a) A school  
4 shall maintain an attendance record showing the students' daily  
5 attendance.

6        (b) The department may inspect a school's attendance  
7 records at any time.

8        Sec. 1603.2310. INSTRUCTOR-TO-STUDENT RATIO. A licensed  
9 school must have at least one instructor for every 25 students on  
10 the school's premises.

11       Sec. 1603.2311. REPORTS TO DEPARTMENT. (a) A licensed  
12 school shall maintain a monthly progress report regarding each  
13 student attending the school. The report must certify the daily  
14 attendance record of each student and the number of hours earned by  
15 each student during the previous month.

16       (b) On a student's completion of a prescribed course of  
17 instruction, the school shall notify the department that the  
18 student has completed the required number of hours and is eligible  
19 to take the appropriate examination.

20       (c) The holder of a school license shall provide to the  
21 department on request:

22           (1) the current course completion rates of students  
23 who attend a course of instruction offered by the school; and

24           (2) job placement rates and employment rates of  
25 students who complete a course of instruction.

26       Sec. 1603.2312. ADDITIONAL DUTIES OF LICENSE HOLDER. The  
27 holder of a school license shall:

- 1           (1) maintain a sanitary premises;  
2           (2) establish regular class and instruction hours and  
3 grades;  
4           (3) hold examinations before issuing diplomas; and  
5           (4) maintain a copy of the school's curriculum in a  
6 conspicuous place and verify that the curriculum is being followed.

7           Sec. 1603.2313. TRANSFER OF HOURS OF INSTRUCTION. (a) A  
8 student at a licensed school may transfer completed hours of  
9 instruction to another licensed school in this state.

10           (b) In order for the hours of instruction to be transferred,  
11 a transcript showing the completed courses and number of hours  
12 certified by the school in which the instruction was given must be  
13 submitted to the department.

14           (c) In evaluating a student's transcript, the department  
15 shall determine whether the agreed tuition has been paid. If the  
16 tuition has not been paid, the department shall notify the student  
17 that the student's transcript cannot be certified to the school to  
18 which the student seeks a transfer until proof is provided that the  
19 tuition has been paid.

20           (d) On evaluation and approval, the department shall  
21 certify in writing to the student and to the school to which the  
22 student seeks a transfer that:

- 23           (1) the stated courses and hours have been  
24 successfully completed; and  
25           (2) the student is not required to repeat the hours of  
26 instruction.

27           Sec. 1603.2314. IDENTIFICATION OF AND WORK PERFORMED BY

1 STUDENT. (a) Each licensed school shall maintain in a conspicuous  
2 place a list of the names and identifying pictures of the students  
3 who are enrolled in the school's courses.

4 (b) A school may not receive compensation for work done by a  
5 student unless the student has completed 10 percent of the required  
6 number of hours for a license under Subchapter E-1.

7 (c) If a school violates this section, the license of the  
8 school may be revoked or suspended.

9 SECTION 3.21. Section 1603.252(b), Occupations Code, is  
10 amended to read as follows:

11 (b) The executive director shall determine uniform  
12 standards for acceptable performance on an examination for a  
13 license under Subchapter E-1 [~~or certificate under Chapter 1601 and~~  
14 ~~for a license or certificate under Chapter 1602~~].

15 SECTION 3.22. Sections 1603.253 and 1603.255, Occupations  
16 Code, are amended to read as follows:

17 Sec. 1603.253. WRITTEN EXAMINATION. The department  
18 [~~commission~~] shall select an examination for each written  
19 examination required under this chapter [~~, Chapter 1601, or Chapter~~  
20 ~~1602~~]. The written examination must be:

21 (1) validated by an independent testing professional;  
22 or

23 (2) purchased from a national testing service.

24 Sec. 1603.255. EARLY EXAMINATION. The commission by rule  
25 [~~department~~] may allow for the early written examination of a  
26 student [~~who has completed the following number of hours of~~  
27 ~~instruction in a department-approved training program.~~

1           ~~[(1) 1,000 hours for a student seeking a Class A barber~~  
2 ~~certificate in a private barber school,~~

3           ~~[(2) 900 hours for a student seeking an operator~~  
4 ~~license in a private cosmetology school, or~~

5           ~~[(3) 900 hours for a student seeking a Class A barber~~  
6 ~~certificate or operator license in a publicly funded barber or~~  
7 ~~cosmetology school].~~

8           SECTION 3.23. Sections 1603.256(a) and (c), Occupations  
9 Code, are amended to read as follows:

10           (a) The commission may require a practical examination as it  
11 considers necessary for a license ~~[or certificate]~~ issued under  
12 Subchapter E-1 [Chapter 1601 or 1602].

13           (c) The following persons may administer a practical  
14 examination ~~[required under this subchapter]~~:

15               (1) the department;

16               (2) a person with whom the department contracts under  
17 Section 1603.252;

18               (3) a licensed ~~[barber]~~ school~~[, private beauty~~  
19 ~~culture school, or a public secondary or postsecondary beauty~~  
20 ~~culture school]~~ that is approved by the department to administer  
21 the examination under Section 1603.252; or

22               (4) the Windham School District.

23           SECTION 3.24. Subchapter G, Chapter 1603, Occupations Code,  
24 is amended to read as follows:

25           SUBCHAPTER G. ~~[CERTIFICATE,]~~ LICENSE~~[, AND PERMIT]~~ RENEWAL

26               Sec. 1603.3001. LICENSE TERMS. (a) Except as provided by  
27 Subsection (b), a license other than a temporary license expires on

1 the second anniversary of the date the license is issued.

2 (b) A school license expires on the first anniversary of the  
3 date the license is issued.

4 Sec. 1603.3002. RENEWAL RULES. (a) The commission by rule  
5 may establish requirements for the renewal of a license issued  
6 under this chapter, including continuing education requirements.

7 (b) The commission may establish separate requirements for:

8 (1) the initial renewal of a license; and

9 (2) subsequent renewals of a license.

10 (c) Before establishing continuing education requirements  
11 under this section, the commission must consider the potential  
12 impact of continuing education with respect to:

13 (1) identifying and assisting trafficked persons; and

14 (2) providing license holders with opportunities to  
15 acquire new skills.

16 Sec. 1603.3003. ISSUANCE OF RENEWAL LICENSE. The  
17 department shall issue a renewal license on receipt of:

18 (1) a renewal application in the form prescribed by  
19 the department; and

20 (2) any renewal fee.

21 Sec. 1603.3004. RENEWAL WHILE IN ARMED FORCES. (a) The  
22 department may not require the holder of a license issued under  
23 Subchapter E-1 who is serving on active duty in the United States  
24 armed forces to renew the person's license.

25 (b) The department shall issue a renewal license on  
26 application and payment of the required renewal fee not later than  
27 the 90th day after the date the person is released or discharged

1 from active duty in the United States armed forces.

2       Sec. 1603.301. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE  
3 PENALTY. The department may deny a person's request to renew a  
4 [~~certificate,~~] license[~~, or permit~~] issued under this chapter[~~, or~~  
5 ~~Chapter 1601, or Chapter 1602~~] if the person has not paid an  
6 administrative penalty imposed under Subchapter F, Chapter  
7 51. This section does not apply if:

8           (1) the person's time to pay or request a hearing has  
9 not expired under Section 51.304;

10          (2) the person has requested a hearing under Section  
11 51.304, but the person's time to pay has not expired under Section  
12 51.307; or

13          (3) the penalty is stayed.

14       SECTION 3.25. The heading to Subchapter H, Chapter 1603,  
15 Occupations Code, is amended to read as follows:

16       SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO MORE THAN ONE  
17                   LICENSE TYPE [~~CHAPTERS 1601 AND 1602~~]

18       SECTION 3.26. Section 1603.351, Occupations Code, is  
19 amended to read as follows:

20       Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE  
21 EDUCATION. (a) The commission shall prescribe the minimum  
22 curriculum, including the subjects and the number of hours in each  
23 subject, taught by a licensed school [~~licensed under this chapter,~~  
24 ~~Chapter 1601, or Chapter 1602~~].

25          (a-1) Notwithstanding any other law, the commission may  
26 adopt rules to:

27           (1) authorize a licensed school [~~licensed under this~~

chapter, Chapter 1601, or Chapter 1602] to account for any hours of instruction completed under this chapter [~~those chapters~~] on the basis of clock hours or credit hours; and

(2) establish standards for determining the equivalency and conversion of clock hours to credit hours and credit hours to clock hours.

(b) The commission may adopt rules allowing distance education only for the theory portion of the curriculum taught by a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

(c) Distance education does not satisfy the requirements of the practical portion of the curriculum taught by a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

SECTION 3.27. Sections 1603.352(a) and (b), Occupations Code, are amended to read as follows:

(a) A person who holds a license[~~, certificate,~~] or permit issued under this chapter[~~, Chapter 1601, or Chapter 1602~~] and who performs a [~~barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology~~] service described by Section 1603.0011(a)(7) or (8) [~~1602.002(a)(8) or (9)~~] shall, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.

(b) The owner or manager of a licensed establishment or

~~[barber shop, barber] school[, beauty shop, specialty shop, beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602,]~~ is responsible for providing an autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for use in the establishment ~~[shop]~~ or school as required by Subsection (a).

SECTION 3.28. Subchapter H, Chapter 1603, Occupations Code, is amended by adding Sections 1603.353, 1603.354, 1603.355, 1603.356, 1603.357, and 1603.358 to read as follows:

Sec. 1603.353. EMPLOYMENT OF LICENSE HOLDER. (a) A licensed school may not employ a person holding a license issued under Subchapter E-1 solely to perform the practices of barbering or cosmetology for which the person is licensed.

(b) A person holding a license for an establishment may not employ or lease to a person to practice barbering or cosmetology at the establishment unless the person holds a license issued under Subchapter E-1.

Sec. 1603.354. NECESSARY EQUIPMENT. The owner, operator, or manager of a licensed establishment or school shall equip the establishment or school with the facilities, supplies, appliances, furnishings, and materials necessary to enable a person employed on the premises to comply with this chapter.

Sec. 1603.355. DISPLAY OF LICENSE. A licensed school or establishment shall display the license in a conspicuous place in the school or establishment for which the license is issued.

Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION.

(a) A licensed school or establishment shall display a sign

1 approved by or acceptable to the commission or the department  
2 concerning services and assistance available to victims of human  
3 trafficking.

4 (b) The sign required by this section must:

5 (1) be in English, Spanish, Vietnamese, and any other  
6 language required by commission rule; and

7 (2) include a toll-free telephone number of a  
8 nationally recognized information and referral hotline for victims  
9 of human trafficking.

10 (c) The commission by rule shall establish requirements  
11 regarding the posting of signs under this section.

12 Sec. 1603.357. DISPLAY OF SANITATION RULES. A licensed  
13 school or establishment shall display a copy of the commission's  
14 sanitation rules.

15 Sec. 1603.358. OPERATION OF ESTABLISHMENT AND SCHOOL ON  
16 SINGLE PREMISES. A person may not operate an establishment on the  
17 same premises as a school unless the facilities are separated by  
18 walls of permanent construction without an opening between the  
19 facilities.

20 SECTION 3.29. Chapter 1603, Occupations Code, is amended by  
21 adding Subchapter H-1 to read as follows:

22 SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE  
23 POSTSECONDARY SCHOOLS

24 Sec. 1603.3601. CANCELLATION AND SETTLEMENT POLICY. The  
25 holder of a private postsecondary school license shall maintain a  
26 cancellation and settlement policy that provides a full refund of  
27 money paid by a student if the student:

1           (1) cancels the enrollment agreement or contract not  
2 later than midnight of the third day after the date the agreement or  
3 contract is signed by the student, excluding Saturdays, Sundays,  
4 and legal holidays; or

5           (2) entered into the enrollment agreement or contract  
6 because of a misrepresentation made:

7                 (A) in the advertising or promotional materials  
8 of the school; or

9                 (B) by an owner or representative of the school.

10         Sec. 1603.3602. REFUND POLICY. (a) The holder of a private  
11 postsecondary school license shall maintain a refund policy to  
12 provide for the refund of any unused parts of tuition, fees, and  
13 other charges paid by a student who, at the expiration of the  
14 cancellation period established under Section 1603.3601:

15                 (1) fails to enter the course of training;

16                 (2) withdraws from the course of training; or

17                 (3) is terminated from the course of training before  
18 completion of the course.

19         (b) The refund policy must provide that:

20                 (1) the refund is based on the period of the student's  
21 enrollment, computed on the basis of course time expressed in  
22 scheduled hours, as specified by an enrollment agreement, contract,  
23 or other document acceptable to the department;

24                 (2) the effective date of the termination for refund  
25 purposes is the earliest of:

26                         (A) the last date of attendance, if the student  
27 is terminated by the school;

1                   (B) the date the license holder receives the  
2 student's written notice of withdrawal; or

3                   (C) 10 school days after the last date of  
4 attendance; and

5                   (3) the school may retain not more than \$100 if:

6                   (A) tuition is collected before the course of  
7 training begins; and

8                   (B) the student does not begin the course of  
9 training before the cancellation period established under Section  
10 1603.3601 expires.

11           Sec. 1603.3603. WITHDRAWAL OR TERMINATION OF STUDENT. (a)  
12 If a student at a private postsecondary school begins a course of  
13 training that is scheduled to run not more than 12 months and,  
14 during the last 50 percent of the course, withdraws from the course  
15 or is terminated by the school, the school:

16                   (1) may retain 100 percent of the tuition and fees paid  
17 by the student; and

18                   (2) is not obligated to refund any additional  
19 outstanding tuition.

20           (b) If a student at a private postsecondary school begins a  
21 course of training that is scheduled to run not more than 12 months  
22 and, before the last 50 percent of the course, withdraws from the  
23 course or is terminated by the school, the school shall refund:

24                   (1) 90 percent of any outstanding tuition for a  
25 withdrawal or termination that occurs during the first week or  
26 first 10 percent of the course, whichever period is shorter;

27                   (2) 80 percent of any outstanding tuition for a

1 withdrawal or termination that occurs after the first week or first  
2 10 percent of the course, whichever period is shorter, but within  
3 the first three weeks of the course;

4 (3) 75 percent of any outstanding tuition for a  
5 withdrawal or termination that occurs after the first three weeks  
6 of the course but not later than the completion of the first 25  
7 percent of the course; and

8 (4) 50 percent of any outstanding tuition for a  
9 withdrawal or termination that occurs not later than the completion  
10 of the first 50 percent of the course.

11 (c) A refund owed under this section must be paid not later  
12 than the 30th day after the date the student becomes eligible for  
13 the refund.

14 Sec. 1603.3604. INTEREST ON REFUND. (a) If tuition is not  
15 refunded within the period required by Section 1603.3603, the  
16 private postsecondary school shall pay interest on the amount of  
17 the refund for the period beginning the first day after the date the  
18 refund period expires and ending the day preceding the date the  
19 refund is made.

20 (b) If tuition is refunded to a lending institution, the  
21 interest shall be paid to that institution and applied against the  
22 student's loan.

23 (c) The commissioner of education shall annually set the  
24 interest rate at a rate sufficient to deter a school from retaining  
25 money paid by a student.

26 (d) The department may exempt a school from the payment of  
27 interest if the school makes a good faith effort to refund the

1 tuition but is unable to locate the student. The school shall  
2 provide to the department on request documentation of the effort to  
3 locate the student.

4 Sec. 1603.3605. REENTRY OF STUDENT AFTER WITHDRAWAL. If a  
5 student voluntarily withdraws or is terminated after completing 50  
6 percent of the course at a private postsecondary school, the school  
7 shall allow the student to reenter at any time during the 48-month  
8 period following the date of withdrawal or termination.

9 Sec. 1603.3606. EFFECT OF STUDENT WITHDRAWAL. (a) A  
10 private postsecondary school shall record a grade of incomplete for  
11 a student who withdraws but is not entitled to a refund under  
12 Section 1603.3603 if the student:

13 (1) requests the grade at the time the student  
14 withdraws; and

15 (2) withdraws for an appropriate reason unrelated to  
16 the student's academic status.

17 (b) A student who receives a grade of incomplete may  
18 reenroll in the program during the 48-month period following the  
19 date the student withdraws and complete the subjects without  
20 payment of additional tuition.

21 Sec. 1603.3607. EFFECT OF PRIVATE POSTSECONDARY SCHOOL  
22 CLOSURE. (a) If a private postsecondary school closes, the  
23 department shall attempt to arrange for students enrolled in the  
24 closed school to attend another private postsecondary school.

25 (b) If a student from a closed school is placed in another  
26 private postsecondary school, the expense incurred by the school in  
27 providing training directly related to educating the student,

1 including the applicable tuition for the period for which the  
2 student paid tuition, shall be paid from the barbering and  
3 cosmetology school tuition protection account.

4 (c) If a student from a closed private postsecondary school  
5 cannot be placed in another private postsecondary school, the  
6 student's tuition and fees shall be refunded as provided by Section  
7 1603.3602. If a student from a closed private postsecondary school  
8 does not accept a place that is available and reasonable in another  
9 private postsecondary school, the student's tuition and fees shall  
10 be refunded as provided by Section 1603.3603. A refund under this  
11 subsection shall be paid from the barbering and cosmetology school  
12 tuition protection account. The amount of the refund may not exceed  
13 \$35,000.

14 (d) If another private postsecondary school assumes  
15 responsibility for the closed school's students and there are no  
16 significant changes in the quality of the training, the student  
17 from the closed school is not entitled to a refund under Subsection  
18 (c).

19 Sec. 1603.3608. BARBERING AND COSMETOLOGY SCHOOL TUITION  
20 PROTECTION ACCOUNT. (a) If on January 1 of any year the amount in  
21 the barbering and cosmetology school tuition protection account is  
22 less than \$225,000, the department shall collect a fee from each  
23 private postsecondary school during that year by applying a  
24 percentage to the school's renewal fee at a rate that will bring the  
25 balance of the account to \$225,000.

26 (b) The department shall administer claims made against the  
27 account.

1        (c) The comptroller shall invest the account in the same  
2 manner as other state funds.

3        (d) Sufficient money from the account shall be appropriated  
4 to the department for the purpose described by Section 1603.3607.

5        (e) Attorney's fees, court costs, or damages may not be paid  
6 from the account.

7        Sec. 1603.3609. RULES. The commission by rule may:

8                (1) adjust any tuition reimbursement limit  
9 established under this subchapter; and

10               (2) adopt procedures regarding the collection of fees  
11 from private postsecondary schools under Section 1603.3608.

12        SECTION 3.30. Section 1603.401, Occupations Code, is  
13 amended to read as follows:

14        Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. The  
15 department may ~~[shall]~~ deny an application for issuance or renewal  
16 of, or may ~~[shall]~~ suspend or revoke, a ~~[certificate,~~ license~~]~~  
17 or permit if the applicant or person holding the ~~[certificate,~~  
18 license~~]~~ or permit:

19                (1) engages in gross malpractice;

20                (2) knowingly continues to practice while having an  
21 infectious or contagious disease;

22                (3) knowingly makes a false or deceptive statement in  
23 advertising;

24                (4) advertises, practices, or attempts to practice  
25 under another person's name or trade name;

26                (5) engages in fraud or deceit in obtaining a  
27 ~~[certificate,~~ license~~]~~ or permit; or

(6) engages in an act that violates this chapter or [7] Chapter 51[, ~~Chapter 1601, or Chapter 1602~~] or a rule or order adopted or issued under this chapter or Chapter 51 [~~these chapters~~].

SECTION 3.31. The heading to Subchapter J, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER J. OTHER [~~PENALTIES AND~~] ENFORCEMENT PROVISIONS

SECTION 3.32. Sections 1603.453 and 1603.454, Occupations Code, are amended to read as follows:

Sec. 1603.453. APPEAL BOND NOT REQUIRED. The department is not required to give an appeal bond in a cause arising under this chapter[, ~~Chapter 1601, or Chapter 1602~~].

Sec. 1603.454. ENFORCEMENT BY ATTORNEY GENERAL. The attorney general shall represent the department in an action to enforce this chapter[, ~~Chapter 1601, or Chapter 1602~~].

SECTION 3.33. The following provisions of the Occupations Code are repealed:

- (1) Chapters 1601 and 1602;
- (2) Sections 1603.104(b), (c), and (c-1);
- (3) Section 1603.205;
- (4) Section 1603.206;
- (5) Section 1603.207;
- (6) Section 1603.254;
- (7) Section 1603.451;
- (8) Section 1603.452;
- (9) Section 1603.455; and
- (10) Section 1603.456.

1           SECTION 3.34. (a) To ensure that licensed schools offering  
2 instruction in barbering and cosmetology maintain accreditation  
3 and that students of those schools continue to qualify for federal  
4 aid, the Texas Commission of Licensing and Regulation shall, as  
5 soon as practicable after the effective date of this Act, adopt any  
6 rules necessary for the orderly implementation of the changes in  
7 law made by this article to the licensing system and curricula  
8 requirements and standards for schools offering instruction in  
9 barbering and cosmetology.

10           (b) Not later than September 1, 2023:

11                 (1) the Texas Commission of Licensing and Regulation  
12 shall adopt any additional rules necessary to implement the changes  
13 in law made by this article; and

14                 (2) the Texas Department of Licensing and Regulation  
15 shall begin to issue and renew licenses and permits under  
16 Subchapters E-1, E-2, and E-3, Chapter 1603, Occupations Code, as  
17 added by this article.

18           SECTION 3.35. Notwithstanding the repeal by this article of  
19 Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and  
20 1603.207, Occupations Code, the Texas Department of Licensing and  
21 Regulation may continue to issue until September 1, 2023, a  
22 certificate, license, or permit under those provisions as they  
23 existed immediately before the effective date of this Act, and  
24 those provisions are continued in effect for that purpose.

25           SECTION 3.36. Notwithstanding the repeal by this article of  
26 Chapters 1601 and 1602, Occupations Code, until the Texas  
27 Commission of Licensing and Regulation adopts rules regarding

1 written and practical examination requirements for the issuance of  
2 licenses under Chapter 1603, Occupations Code, as amended by this  
3 article, the Texas Department of Licensing and Regulation shall  
4 continue to operate under the requirements regarding written and  
5 practical examinations in former Chapters 1601 and 1602,  
6 Occupations Code, as those chapters were in effect immediately  
7 before the effective date of this Act, and those provisions are  
8 continued in effect for that purpose.

9       SECTION 3.37. (a) A certificate, license, or permit issued  
10 under former Chapter 1601 or 1602, Occupations Code, or under  
11 former Section 1603.205, 1603.206, or 1603.207, Occupations Code,  
12 before September 1, 2023, continues to be valid until the  
13 certificate, license, or permit expires, and those chapters and  
14 sections are continued in effect for that purpose.

15       (b) A person who on the effective date of this Act holds a  
16 certificate, license, or permit issued under former Chapter 1601 or  
17 1602, Occupations Code, or under former Section 1603.205, 1603.206,  
18 or 1603.207, Occupations Code, is entitled on expiration of that  
19 certificate, license, or permit to issuance of a comparable license  
20 or permit under the applicable provision of Chapter 1603,  
21 Occupations Code, as amended by this article, if the person  
22 otherwise meets the requirements for the license or permit.

23       SECTION 3.38. Notwithstanding any other law, on the  
24 effective date of this Act, the holder of a license issued under  
25 former Section 1601.256, 1601.262, or 1601.263, Occupations Code,  
26 before the effective date of this Act may perform the services  
27 described by Sections 1603.0011(a)(6) and (c), Occupations Code, as

1 added by this Act.

2       SECTION 3.39. (a) Not later than December 1, 2021, the  
3 presiding officer of the Texas Commission of Licensing and  
4 Regulation shall appoint members to the Barbering and Cosmetology  
5 Advisory Board in accordance with Section 1603.051, Occupations  
6 Code, as amended by this article.

7       (b) On December 1, 2021, the Advisory Board on Barbering and  
8 the Advisory Board on Cosmetology are abolished.

9       (c) Notwithstanding Section 1603.053, Occupations Code, as  
10 added by this article, in making the initial appointments to the  
11 Barbering and Cosmetology Advisory Board, the presiding officer of  
12 the Texas Commission of Licensing and Regulation shall designate  
13 three members of the advisory board to serve terms expiring January  
14 31, 2023, three members to serve terms expiring January 31, 2025,  
15 and three members to serve terms expiring January 31, 2027.

16       SECTION 3.40. As soon as practicable after the effective  
17 date of this Act, the comptroller of public accounts shall transfer  
18 to the barbering and cosmetology school tuition protection account  
19 the unexpended and unencumbered balance of the barber school  
20 tuition protection account and the unexpended and unencumbered  
21 balance of the private beauty culture school tuition protection  
22 account.

23       SECTION 3.41. (a) The changes in law made by this article  
24 do not affect the validity of a disciplinary action or other  
25 proceeding that was initiated before the effective date of this Act  
26 and that is pending on the effective date of this Act. A  
27 disciplinary action that is pending on the effective date of this

1 Act is governed by the law in effect immediately before the  
2 effective date of this Act, and the former law is continued in  
3 effect for that purpose.

4 (b) The repeal of a law by this article does not entitle a  
5 person to a refund of a certificate, license, or permit fee paid by  
6 the person before the effective date of this Act.

7 ARTICLE 4. RESIDENTIAL SERVICE CONTRACTS

8 SECTION 4.01. Section 1101.006, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real  
11 Estate Commission is subject to Chapter 325, Government Code (Texas  
12 Sunset Act). Unless continued in existence as provided by that  
13 chapter, the commission is abolished and this chapter and [7]  
14 Chapter 1102[, ~~and Chapter 1303~~] of this code and Chapter 221,  
15 Property Code, expire September 1, 2025.

16 SECTION 4.02. Section 1304.003(a), Occupations Code, is  
17 amended by amending Subdivision (2) and adding Subdivision (4) to  
18 read as follows:

19 (2) "Service contract" means an agreement that is  
20 entered into for a separately stated consideration and for a  
21 specified term under which a provider agrees to:

22 (A) repair, replace, or maintain a product, or  
23 provide indemnification for the repair, replacement, or  
24 maintenance of a product, for operational or structural failure or  
25 damage caused by a defect in materials or workmanship or by normal  
26 wear;

27 (B) provide identity recovery, if the service

1 contract is financed under Chapter 348 or 353, Finance Code; ~~[or]~~

2 (C) provide compensation to the buyer of a  
3 vehicle on the total constructive loss under a depreciation benefit  
4 optional member program; or

5 (D) provide a service, reimbursement, or payment  
6 under a residential service contract.

7 (4) "Residential service contract" means a service  
8 contract of any duration under which a provider agrees to, in the  
9 event of the operational or structural failure of, damage caused by  
10 a power surge to, a defect in materials or workmanship of, or damage  
11 caused by normal wear to a structural component, an appliance, or an  
12 electrical, plumbing, heating, cooling, or air-conditioning system  
13 of a residential property that is attached to or located on the  
14 residential property:

15 (A) service, maintain, repair, or replace all or  
16 any part of the structural component, appliance, or electrical,  
17 plumbing, heating, cooling, or air-conditioning system;

18 (B) provide incidental payment of indemnity  
19 under limited circumstances, including food spoilage; or

20 (C) provide reimbursement or payment instead of  
21 service, repair, or replacement when a part, structural component,  
22 appliance, or service provider or technician is unavailable.

23 SECTION 4.03. Section 1304.003(b), Occupations Code, is  
24 amended to read as follows:

25 (b) A service contract described by Subsection (a)(2)(A)  
26 may ~~also~~ provide for:

27 (1) incidental payment or indemnity under limited

1 circumstances, including towing, rental, and emergency road  
2 service;

3 (2) the repair or replacement of a product for damage  
4 resulting from a power surge or for accidental damage incurred in  
5 handling the product;

6 (3) identity recovery, if the service contract is  
7 financed under Chapter 348 or 353, Finance Code; or

8 (4) the replacement of a motor vehicle key or key fob  
9 in the event the key or key fob is inoperable, lost, or stolen.

10 SECTION 4.04. Section 1304.004(b), Occupations Code, is  
11 amended to read as follows:

12 (b) This chapter does not apply to:

13 (1) a warranty;

14 (2) a maintenance agreement;

15 (3) a service contract sold or offered for sale to a  
16 person who is not a consumer;

17 (4) ~~[a residential service contract sold by an entity~~  
18 ~~licensed by the Texas Real Estate Commission under Chapter 1303,~~

19 ~~[(5)]~~ an agreement issued by an automobile service club  
20 that holds a certificate of authority under Chapter 722,  
21 Transportation Code;

22 (5) ~~[(6)]~~ a service contract sold by a motor vehicle  
23 dealer on a motor vehicle sold by that dealer, if the dealer:

24 (A) is the provider;

25 (B) is licensed as a motor vehicle dealer under  
26 Chapter 2301; and

27 (C) covers its obligations under the service

1 contract with a reimbursement insurance policy; or

2 (6) [~~(7)~~] a contract offered by a local exchange  
3 telephone company that provides for the repair of inside telephone  
4 wiring, if:

5 (A) the contract term does not exceed one month;  
6 and

7 (B) the consumer can terminate the contract  
8 before a new contract term begins without liability except for  
9 payment of charges for the term that has begun.

10 SECTION 4.05. Subchapter A, Chapter 1304, Occupations Code,  
11 is amended by adding Section 1304.0041 to read as follows:

12 Sec. 1304.0041. CERTAIN EXEMPT AGREEMENTS. This chapter  
13 does not apply to:

14 (1) a performance guarantee offered by:

15 (A) the builder of a residential property; or

16 (B) the manufacturer or seller of an appliance or  
17 other system or component of a residential property;

18 (2) a residential service contract executed before  
19 August 28, 1979;

20 (3) a guarantee or warranty that is:

21 (A) designed to guarantee or warrant the repair  
22 or service of an appliance, system, or component of a residential  
23 property; and

24 (B) issued by a person who sells, services,  
25 repairs, or replaces the appliance, system, or component at the  
26 time or before the guarantee or warranty is issued;

27 (4) a service or maintenance agreement or a warranty

1 that:

2 (A) is sold, offered for sale, or issued by a  
3 manufacturer or merchant who manufactures or sells a product or  
4 part of a product, including a structural component, an appliance,  
5 or an electrical, plumbing, heating, cooling, or air-conditioning  
6 system of a building or residence; and

7 (B) provides for, warrants, or guarantees the  
8 maintenance, repair, replacement, or performance of the product or  
9 part of the product; or

10 (5) home warranty insurance as defined by Section  
11 2005.001, Insurance Code.

12 SECTION 4.06. Section 1304.005, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1304.005. EXEMPTIONS FROM CERTAIN OTHER LAWS.  
15 Marketing, selling, offering for sale, issuing, making, proposing  
16 to make, and administering a service contract are exempt from:

17 (1) ~~[Chapter 1303,~~  
18 ~~(2)]~~ Chapter 722, Transportation Code; and  
19 (2) ~~(3)~~ the Insurance Code and other laws of this  
20 state regulating the business of insurance.

21 SECTION 4.07. Section 1304.151, Occupations Code, is  
22 amended by amending Subsection (b) and adding Subsection (b-4) to  
23 read as follows:

24 (b) If the provider ensures its obligations under  
25 Subsection (a)(2), the amount maintained in the reserve account may  
26 not be less than an amount equal to 40 percent of the gross  
27 consideration the provider received from consumers from the sale of

1 all service contracts issued and outstanding in this state, minus  
 2 any claims paid. The executive director may review and examine the  
 3 reserve account. Except as provided by Subsections [~~Subsection~~]  
 4 (b-1) and (b-4), the amount of the security deposit may not be less  
 5 than \$250,000. The provider must submit to the executive director  
 6 on request a copy of the provider's financial statements that must  
 7 be prepared in accordance with generally accepted accounting  
 8 principles, be without qualification as to the going concern status  
 9 of the provider, and be audited by an independent certified public  
 10 accountant. The commission by rule may require the provider to  
 11 submit additional financial reports.

12 (b-4) The amount of the security deposit required under  
 13 Subsection (b) may not be less than \$25,000 for a provider of a  
 14 residential service contract.

15 SECTION 4.08. Section 1304.156, Occupations Code, is  
 16 amended by adding Subsection (f) to read as follows:

17 (f) A residential service contract must state that the  
 18 provider agrees that, under normal circumstances, the provider will  
 19 initiate the performance of services not later than 48 hours after  
 20 the contract holder requests the services.

21 SECTION 4.09. Subchapter D, Chapter 1304, Occupations Code,  
 22 is amended by adding Section 1304.157 to read as follows:

23 Sec. 1304.157. RESIDENTIAL SERVICE CONTRACTS. (a) A  
 24 person may not sell, offer to sell, arrange or solicit the sale of,  
 25 or receive an application for a residential service contract unless  
 26 the person is:

27 (1) employed by a provider or administrator of a

1 residential service contract who is licensed under this chapter; or  
2 (2) licensed as a real estate sales agent, real estate  
3 broker, mobile home dealer, or insurance agent in this state.

4 (b) Notwithstanding Subsection (a), a person compensated by  
5 a provider or administrator, but who is not employed by that  
6 provider or administrator, may sell, offer to sell, arrange or  
7 solicit the sale of, or receive an application for a residential  
8 service contract if the contract contains the following statement  
9 in at least 10-point boldface type: "NOTICE: THIS COMPANY PAYS  
10 PERSONS NOT EMPLOYED BY THE PROVIDER FOR THE SALE, ADVERTISING,  
11 INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER  
12 CHAPTER 1304, OCCUPATIONS CODE." For purposes of Subsection (a) and  
13 this subsection, a person is employed by a provider or  
14 administrator if, in connection with the person selling, offering  
15 to sell, arranging or soliciting the sale of, or receiving  
16 applications for residential service contracts, the provider or  
17 administrator:

18 (1) directs and controls the person's performance; and  
19 (2) is responsible for representations made by the  
20 person when acting within the scope of the person's employment.

21 (c) Notwithstanding Section 1304.151(a)(1), a provider of a  
22 residential service contract may use a reimbursement insurance  
23 policy issued by a captive insurance company as defined by Section  
24 964.001, Insurance Code, to insure the provider's residential  
25 service contracts if the provider maintains a funded reserve equal  
26 to not less than 25 percent of the gross consideration the provider  
27 received from consumers from the sale of all the provider's service

1 contracts issued and outstanding in this state, minus any claims  
2 paid. A reimbursement insurance policy issued to a residential  
3 service contract provider in accordance with this subsection:

4 (1) is not subject to Section 1304.152; and

5 (2) is considered to satisfy the requirements of  
6 Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

7 SECTION 4.10. Chapter 1303, Occupations Code, is repealed.

8 SECTION 4.11. Not later than June 1, 2022, the Texas  
9 Commission of Licensing and Regulation shall adopt rules necessary  
10 to implement the changes in law made by this article to Chapter  
11 1304, Occupations Code.

12 SECTION 4.12. (a) A residential service company licensed  
13 under former Chapter 1303, Occupations Code, that on May 1, 2021,  
14 maintained security in accordance with former Section 1303.154,  
15 Occupations Code, shall continue to maintain security in an amount  
16 not less than the amount required under that section until  
17 September 1, 2026, and the former law is continued in effect for  
18 that purpose.

19 (b) A residential service company described by Subsection  
20 (a) of this section that is operating as a residential service  
21 contract provider licensed under Chapter 1304, Occupations Code, as  
22 amended by this article, is not required to comply with the security  
23 requirements for residential service contract providers under  
24 Chapter 1304, Occupations Code, as amended by this article, until  
25 September 1, 2026.

26 (c) Not later than September 1, 2022, a residential service  
27 company described by Subsection (a) of this section that is

operating as a residential service contract provider licensed under Chapter 1304, Occupations Code, as amended by this article, shall update the company's financial security documents to:

(1) list the Texas Department of Licensing and Regulation as a party to the financial security document; and

(2) replace each reference to the Texas Real Estate Commission with a reference to the Texas Department of Licensing and Regulation.

SECTION 4.13. (a) In this section, "department" means the Texas Department of Licensing and Regulation.

(b) On the effective date of this Act:

(1) a license issued by the Texas Real Estate Commission under former Chapter 1303, Occupations Code, is continued in effect as a license of the department;

(2) all rules, fees, policies, procedures, decisions, and forms of the Texas Real Estate Commission that relate to a program or activity transferred under this article are continued in effect as rules, fees, policies, procedures, decisions, and forms of the Texas Commission of Licensing and Regulation or the department, as applicable, and remain in effect until changed by the Texas Commission of Licensing and Regulation or the department; and

(3) a complaint, investigation, contested case, or other proceeding related to a program that is transferred under this article and that is pending on the effective date of this Act is transferred without change in status to the Texas Commission of Licensing and Regulation or the department, as appropriate.

(c) On the effective date of this Act:

(1) all money, contracts, leases, property, software source code and documentation, records, and obligations of the Texas Real Estate Commission relating to a program or activity transferred to the department under this article are transferred to the department; and

(2) the unexpended and unobligated balance of any money appropriated by the legislature relating to that program or activity is transferred to the department.

(d) As soon as practicable after the effective date of this Act, the Texas Real Estate Commission shall transfer to the Texas Commission of Licensing and Regulation or the department, as appropriate, any bond, reimbursement insurance policy, or other security held for a residential service company that relates to a program or activity transferred under this article.

(e) Unless the context indicates otherwise, a reference in law or administrative rule to the Texas Real Estate Commission with respect to a program or activity transferred from the Texas Real Estate Commission to the department under this article means the Texas Commission of Licensing and Regulation or the department, as appropriate.

(f) The Texas Real Estate Commission shall provide the department with access to any systems, facilities, or information necessary to implement the change in law made by this article.

#### ARTICLE 5. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SECTION 5.01. Section 401.304(a), Occupations Code, is amended to read as follows:

1           (a) To be eligible for licensing as a speech-language  
2 pathologist or audiologist, an applicant must:

3               (1) if the application is for a license in:

4                   (A) speech-language pathology, possess at least  
5 a master's degree with a major in at least one of the areas of  
6 communicative sciences or disorders from a program accredited by a  
7 national accrediting organization that is approved by the  
8 commission or department and recognized by the United States  
9 secretary of education under the Higher Education Act of 1965 (20  
10 U.S.C. Section 1001 et seq.) in an accredited or approved college or  
11 university; or

12                   (B) audiology, possess at least a master's  
13 ~~[doctoral]~~ degree in audiology or a related hearing science from a  
14 program accredited by a national accrediting organization that is  
15 approved by the commission or department and recognized by the  
16 United States secretary of education under the Higher Education Act  
17 of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or  
18 approved college or university;

19               (2) submit a transcript from a public or private  
20 institution of higher learning showing successful completion of  
21 course work in amounts set by the commission by rule in:

22                   (A) normal development and use of speech,  
23 language, and hearing;

24                   (B) evaluation, habilitation, and rehabilitation  
25 of speech, language, and hearing disorders; and

26                   (C) related fields that augment the work of  
27 clinical practitioners of speech-language pathology and audiology;

1           (3) have successfully completed at least 36 semester  
2 hours in courses that are acceptable toward a graduate degree by the  
3 college or university in which the courses are taken, at least 24 of  
4 which must be in the professional area for which the license is  
5 requested;

6           (4) have completed the minimum number of hours,  
7 established by the commission by rule, of supervised clinical  
8 experience with persons who present a variety of communication  
9 disorders; and

10          (5) have completed the full-time supervised  
11 professional experience, as defined by commission rule, in which  
12 clinical work has been accomplished in the major professional area  
13 for which the license is being sought.

14          SECTION 5.02. Section 401.304(a), Occupations Code, as  
15 amended by this article, applies only to a license application  
16 submitted on or after the effective date of this Act. A license  
17 application submitted before that date is governed by the law in  
18 effect on the date the license application was submitted, and the  
19 former law is continued in effect for that purpose.

20                           ARTICLE 6. EFFECTIVE DATE

21          SECTION 6.01. This Act takes effect September 1, 2021.

ADOPTED

MAY 24 2021

*Lately Saw*  
Secretary of the Senate

By: *D. Burkling*

H.B. No. 1560

Substitute the following for \_\_.B. No. \_\_\_\_:

By: *Laxton*

C.S. \_\_.B. No. \_\_\_\_

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL POWERS AND DUTIES

SECTION 1.01. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. ~~[(a)]~~ The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2033 ~~[2021]~~.

~~[(b) The review of the commission and department by the Sunset Advisory Commission under this section may not include a review of any program that was transferred to the department on or after September 1, 2016.]~~

SECTION 1.02. Section 51.054, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing ~~[legislation that created the]~~ department operations ~~[and the commission]~~;

1 (2) the programs, functions, rules, and budget of  
2 ~~[operated by]~~ the department;

3 (3) the scope of and limitations on the rulemaking  
4 authority of the commission ~~[role and functions of the department];~~

5 (4) ~~[the rules of the department, with an emphasis on~~  
6 ~~the rules that relate to disciplinary and investigatory authority,~~  
7 ~~[(5) the current budget for the department,~~  
8 ~~[(6)]~~ the results of the most recent formal audit of  
9 the department;

10 (5) ~~[(7)]~~ the requirements of:

11 (A) laws relating to ~~[the]~~ open meetings, ~~[law,~~  
12 ~~Chapter 551, Government Code,~~

13 ~~[(B) the]~~ public information, ~~[law, Chapter 552,~~  
14 ~~Government Code,~~

15 ~~[(C) the]~~ administrative procedure, and  
16 disclosing conflicts of interest ~~[law, Chapter 2001, Government~~  
17 ~~Code]; and~~

18 (B) ~~[(D)]~~ other laws applicable to members of a  
19 state policy-making body in performing their duties ~~[relating to~~  
20 ~~public officials, including conflict-of-interest laws]; and~~

21 (6) ~~[(8)]~~ any applicable ethics policies adopted by  
22 the department or the Texas Ethics Commission.

23 (d) The executive director of the department shall create a  
24 training manual that includes the information required by  
25 Subsection (b). The executive director shall distribute a copy of  
26 the training manual annually to each member of the commission. Each  
27 member of the commission shall sign and submit to the executive

1 director a statement acknowledging that the member received and has  
2 reviewed the training manual.

3 SECTION 1.03. Section 51.209, Occupations Code, is amended  
4 by adding Subsections (a-1) and (a-2) to read as follows:

5 (a-1) An advisory board shall meet at the call of the  
6 executive director or the presiding officer of the commission.

7 (a-2) An advisory board may meet by telephone conference  
8 call, videoconference, or other similar telecommunication method,  
9 provided that each portion of the meeting that is required to be  
10 open to the public shall be audible to the public and, in the case of  
11 a meeting held by videoconference, visible to the public. If a  
12 problem occurs that causes a meeting to no longer be visible or  
13 audible to the public as required under this subsection, the  
14 meeting must be recessed until the problem is resolved. If the  
15 problem is not resolved in six hours or less, the meeting must be  
16 adjourned. The face of each participant in a meeting held by  
17 videoconference, while that participant is speaking, must be  
18 clearly visible, and the participant's voice must be audible, to  
19 each other participant and, during the open portion of the meeting,  
20 to the members of the public. A meeting held by telephone  
21 conference call, videoconference, or other similar  
22 telecommunication method is not subject to the requirements of  
23 Sections 551.127(a-3), (b), (c), (e), (f), (h), (i), and (j),  
24 Government Code.

25 SECTION 1.04. Subchapter D, Chapter 51, Occupations Code,  
26 is amended by adding Sections 51.2095 and 51.211 to read as follows:

27 Sec. 51.2095. INTERDISCIPLINARY ADVISORY BOARDS. The

1 executive director or the presiding officer of the commission may  
2 appoint interdisciplinary advisory boards consisting of members  
3 from various businesses, industries, general trades, or  
4 occupations to provide expertise related to a program regulated by  
5 the department.

6 Sec. 51.211. RISK-BASED INSPECTIONS. (a) The department  
7 shall conduct risk-based inspections that prioritize inspections  
8 based on key risk factors identified by the department, including:

9 (1) whether a license holder has previously violated a  
10 law establishing a regulatory program administered by the  
11 department or a rule or order of the commission or executive  
12 director; and

13 (2) the number of violations committed by a license  
14 holder.

15 (b) The department may use alternative inspection methods,  
16 including the use of videoconference technology or other methods  
17 instead of conducting an in-person inspection, in circumstances the  
18 department considers appropriate.

19 SECTION 1.05. Section 51.251, Occupations Code, is amended  
20 by adding Subsection (c) to read as follows:

21 (c) The executive director shall establish methods by which  
22 consumers and service recipients are notified of the name, mailing  
23 address, and telephone number of the department for the purpose of  
24 directing complaints to the department.

25 SECTION 1.06. Section 51.252, Occupations Code, is amended  
26 by amending Subsections (a) and (c) and adding Subsection (b-2) to  
27 read as follows:

1           (a) The department shall maintain a system to promptly and  
2 efficiently act on complaints filed with the department. The  
3 department shall maintain information about parties to the  
4 complaint, the subject matter of the complaint, a summary of the  
5 results of the review or investigation of the complaint, and its  
6 disposition [~~The executive director shall establish methods by~~  
7 ~~which consumers and service recipients are notified of the name,~~  
8 ~~mailing address, and telephone number of the department for the~~  
9 ~~purpose of directing complaints to the department. The department~~  
10 ~~shall provide to the person filing the complaint and to each person~~  
11 ~~who is a subject of the complaint information about the~~  
12 ~~department's policies and procedures relating to complaint~~  
13 ~~investigation and resolution]~~.

14           (b-2) The department shall make information available  
15 describing its procedures for complaint investigation and  
16 resolution.

17           (c) The department [~~at least quarterly and until final~~  
18 ~~disposition of the complaint,~~] shall periodically notify the  
19 [~~person filing the~~] complaint parties [~~and each person who is a~~  
20 ~~subject of the complaint~~] of the status of the complaint until final  
21 disposition [~~investigation~~] unless the notice would jeopardize an  
22 [~~undercover~~] investigation.

23           SECTION 1.07. Subchapter E, Chapter 51, Occupations Code,  
24 is amended by adding Sections 51.2521 and 51.255 to read as follows:

25           Sec. 51.2521. COMPLAINT INVESTIGATION. (a) The department  
26 shall assign priorities and investigate complaints based on risk to  
27 the public of the conduct alleged in the complaint.

1        (b) If the department determines at any time that an  
2 allegation made or formal complaint submitted by a person is  
3 inappropriate or without merit, the department shall dismiss the  
4 complaint.

5        Sec. 51.255. STATISTICAL ANALYSIS OF COMPLAINTS. (a) The  
6 department shall make available on the department's Internet  
7 website a statistical analysis of the complaints received by the  
8 department.

9        (b) The analysis under this section must include aggregate  
10 information on the number, source, type, and disposition of  
11 complaints received during the preceding state fiscal year and must  
12 include, as applicable, the following information for each program  
13 regulated by the department:

14                (1) the number of license holders;

15                (2) the number of complaints received against license  
16 holders;

17                (3) the number of complaints resolved and the manner  
18 in which they were resolved, including:

19                        (A) the number of complaints dismissed and the  
20 reasons for dismissal;

21                        (B) the number of contested cases referred to and  
22 heard by the State Office of Administrative Hearings;

23                        (C) the number of cases appealed to a district  
24 court;

25                        (D) the number of complaints resulting in  
26 disciplinary action, the disciplinary action taken, and whether the  
27 disciplinary action was imposed by an agreed settlement or default

1 order issued by the executive director or a final order issued by  
2 the commission;

3 (E) a breakdown of the nature of the alleged  
4 violations in:

5 (i) complaints opened for investigation;  
6 and

7 (ii) cases that resulted in disciplinary  
8 action; and

9 (F) the number of complaints resolved,  
10 categorized by whether the complaint originated from department  
11 staff or from the public;

12 (4) the average time required to resolve a complaint;

13 (5) the average amount of administrative penalties  
14 assessed; and

15 (6) the number and amount of refunds ordered by the  
16 commission or executive director or obtained through an informal  
17 resolution.

18 SECTION 1.08. Section 51.351, Occupations Code, is amended  
19 by adding Subsection (e) to read as follows:

20 (e) The department may take action under Section 51.353 for  
21 a violation identified during an inspection.

22 SECTION 1.09. Subchapter G, Chapter 51, Occupations Code,  
23 is amended by adding Section 51.359 to read as follows:

24 Sec. 51.359. REFUND. (a) Subject to Subsection (b), the  
25 commission or executive director may order a license holder to pay a  
26 refund to a consumer as provided in an agreed settlement, default  
27 order, or commission order instead of or in addition to imposing an

1 administrative penalty or sanction.

2 (b) The amount of a refund ordered may not exceed the amount  
3 the consumer paid to the license holder for a service regulated by  
4 the department. The commission or executive director may not  
5 require payment of other damages or estimate harm in a refund order.

6 SECTION 1.10. Section 51.4012(a), Occupations Code, is  
7 amended to read as follows:

8 (a) Notwithstanding any other law, the commission may  
9 determine that a person is not eligible for a license based on the  
10 person's criminal history [~~or other information that indicates that~~  
11 ~~the person lacks the honesty, trustworthiness, and integrity to~~  
12 ~~hold a license issued by the department~~].

13 SECTION 1.11. Section 51.405, Occupations Code, is amended  
14 to read as follows:

15 Sec. 51.405. CONTINUING EDUCATION. (a) The department  
16 [~~commission~~] shall recognize, prepare, or administer continuing  
17 education programs for license holders. A license holder must  
18 participate in the programs to the extent required by the  
19 commission to keep the person's license.

20 (b) Notwithstanding other law, the commission by rule may:

21 (1) establish a minimum number of hours of continuing  
22 education required for license renewal;

23 (2) provide for the registration and renewal of  
24 continuing education providers and the approval of continuing  
25 education courses; and

26 (3) assess reasonable and necessary fees on continuing  
27 education providers.

1       (c) In adopting rules under this section for a program  
2 regulated by the department, the commission shall consult, if  
3 applicable, with the advisory board established for the program.

4       SECTION 1.12. Subchapter H, Chapter 51, Occupations Code,  
5 is amended by adding Section 51.409 to read as follows:

6       Sec. 51.409. FINANCIAL DISCLOSURE STATEMENT. (a) The  
7 commission by rule may require a person, other than an individual,  
8 applying for a license issued by the department to submit with the  
9 license application a financial disclosure statement. The rules  
10 may require any of the following information to be disclosed based  
11 on the type of license for which the application is submitted:

12               (1) the name of the applicable business entity;

13               (2) the name of each person who has a direct financial  
14 investment in the business;

15               (3) the name of each person, other than an individual,  
16 who:

17                       (A) has a financial investment in the business;

18 and

19                       (B) is not otherwise disclosed under Subdivision  
20 (2);

21               (4) the total amount or percentage of the financial  
22 investment made by each person described by Subdivision (2); and

23               (5) the name of each of the following persons  
24 associated with the business, if the person is not otherwise  
25 disclosed under Subdivision (2) or (3):

26                       (A) a partner;

27                       (B) an officer;

1                   (C) a director;  
2                   (D) a managing employee;  
3                   (E) an owner or person who controls the owner;  
4 and  
5                   (F) a person who acts as a controlling person of  
6 the business through the exercise of direct or indirect influence  
7 or control over the management of the business, the expenditure of  
8 money by the business, or a policy of the business, including:  
9                   (i) any management company, landlord,  
10 marketing company, or similar person who operates or contracts for  
11 the operation of the business and, if the business is a publicly  
12 traded corporation or is controlled by a publicly traded  
13 corporation, any officer or director of the corporation;  
14                   (ii) an individual who has a personal,  
15 familial, or other relationship with an owner, manager, landlord,  
16 tenant, or provider of a business that allows the individual to  
17 exercise actual control of the business; and  
18                   (iii) any other person the commission by  
19 rule requires to be included based on the person's exercise of  
20 direct or indirect influence or control other than a shareholder or  
21 lender of the corporation.  
22                   (b) The department may deny an application for the issuance  
23 or renewal of a license or may suspend or revoke a license on the  
24 grounds that an applicant or license holder:  
25                   (1) fails to disclose a relationship for which  
26 disclosure is required by rules adopted under this section; or  
27                   (2) discloses a relationship for which disclosure is

1 required by rules adopted under this section with a person whose  
2 license was revoked or who has failed to comply with an order of the  
3 commission or executive director.

4 SECTION 1.13. Section 202.505, Occupations Code, is amended  
5 to read as follows:

6 Sec. 202.505. REEXAMINATION IF LICENSE SUSPENDED OR  
7 REVOKED. The department may refuse to reinstate a license or to  
8 issue a new license until a podiatrist has passed the regular  
9 license examination if the commission or executive director  
10 suspended or revoked the license for:

11 (1) failure to satisfy continuing education  
12 requirements [~~under Section 202.305~~]; or

13 (2) nonpayment of the license renewal fee.

14 SECTION 1.14. Section 402.207(c), Occupations Code, is  
15 amended to read as follows:

16 (c) An apprentice permit holder shall work under the  
17 supervision of a license holder for at least one year. [~~During the~~  
18 ~~apprentice year, the apprentice permit holder shall complete 20~~  
19 ~~hours of classroom continuing education as required by Section~~  
20 ~~402.303 for a license holder.~~]

21 SECTION 1.15. Section 402.305, Occupations Code, is amended  
22 to read as follows:

23 Sec. 402.305. CONTINUING EDUCATION EXEMPTIONS. The  
24 department may renew the license of a license holder who does not  
25 comply with the applicable continuing education requirements [~~of~~  
26 ~~Section 402.303 or 402.304~~] if the license holder:

27 (1) was licensed for the first time during the 24

1 months before the reporting date; or

2 (2) submits proof from an attending physician that the  
3 license holder suffered a serious or disabling illness or physical  
4 disability that prevented compliance with the continuing education  
5 requirements during the 24 months before the reporting date.

6 SECTION 1.16. Section 802.062(b), Occupations Code, is  
7 amended to read as follows:

8 (b) An ~~[The]~~ inspection by the department must be conducted  
9 during the facility's normal business hours, and the licensed  
10 breeder or a representative of the licensed breeder must be given a  
11 reasonable opportunity to be present during the inspection.

12 SECTION 1.17. Section 1151.1581, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1151.1581. CONTINUING EDUCATION. (a) ~~[The commission  
15 shall recognize, prepare, or administer continuing education  
16 programs for registrants under this chapter.~~

17 ~~[(b)]~~ The comptroller must review and approve any ~~[all]~~  
18 continuing education programs for registrants.

19 (b) ~~[(c)] A registrant must participate in the programs to  
20 the extent required by the department to keep the person's  
21 certificate of registration.~~

22 ~~[(d)] The commission may set fees for continuing education  
23 courses and providers of continuing education courses in amounts  
24 reasonable and necessary to cover the department's costs in  
25 administering the department's duties under this section.~~

26 ~~[(e)]~~ The comptroller may set fees for any continuing  
27 education courses and providers of continuing education courses in

1 amounts reasonable and necessary to cover the comptroller's costs  
2 in administering the comptroller's duties under this section.

3 ~~[(f) As part of the continuing education requirements for a  
4 registered professional appraiser who is the chief appraiser of an  
5 appraisal district, the commission by rule shall require the  
6 registrant to complete:~~

7 ~~[(1) at least half of the required hours in a program  
8 devoted to one or more of the topics listed in Section 1151.164(b),  
9 and~~

10 ~~[(2) at least two of the required hours in a program of  
11 professional ethics specific to the chief appraiser of an appraisal  
12 district, including a program on the importance of maintaining the  
13 independence of an appraisal office from political pressure.]~~

14 SECTION 1.18. Section 1152.106, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1152.106. ~~[MEETINGS,]~~ VOTE REQUIRED FOR ACTION. ~~[(a)  
17 The council shall meet at least semiannually at the call of the  
18 presiding officer or at the call of a majority of its members.]~~

19 ~~[(b)]~~ A decision of the council is not effective unless it  
20 receives the affirmative vote of at least four members.

21 SECTION 1.19. Section 1953.106, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1953.106. RENEWAL OF CERTIFICATE. ~~[(a)]~~ To renew a  
24 certificate of registration under this chapter, a professional  
25 sanitarian must:

26 (1) pay to the department a renewal fee prescribed by  
27 the commission by rule; and

1           (2) provide proof of completion of any applicable  
2 continuing education requirements prescribed by the commission by  
3 rule.

4           SECTION 1.20. Section 1958.104, Occupations Code, is  
5 amended to read as follows:

6           Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The  
7 commission shall adopt rules regarding a license application. The  
8 commission shall adopt rules that establish minimum requirements  
9 for a license, including:

10           (1) the type of license;

11           (2) the qualifications for the license, including any  
12 previous training required under Section 1958.106;

13           (3) renewal requirements for the license~~[, including~~  
14 ~~ongoing continuing education required under Section 1958.106]~~; and

15           (4) liability insurance requirements for the license.

16           SECTION 1.21. Section 1958.106, Occupations Code, is  
17 amended to read as follows:

18           Sec. 1958.106. TRAINING [~~, CONTINUING EDUCATION~~]. (a) The  
19 commission shall adopt rules regarding training required under this  
20 chapter [~~and continuing education required for a license holder~~  
21 ~~under this chapter~~].

22           (b) The rules may include requirements regarding training  
23 [~~and continuing education~~] providers, including rules  
24 establishing:

25           (1) accreditation by the department;

26           (2) curriculum requirements; and

27           (3) qualifications.

1           SECTION 1.22. Section 2308.157, Occupations Code, is  
2 amended to read as follows:

3           Sec. 2308.157. REQUIREMENT FOR INITIAL RENEWAL OF INCIDENT  
4 MANAGEMENT TOWING OPERATOR'S LICENSE [~~CONTINUING EDUCATION~~]. [~~(a)~~  
5 ~~The commission by rule shall recognize, prepare, or administer~~  
6 ~~continuing education programs for license holders. Except as~~  
7 ~~provided by Subsection (c), each license holder must complete a~~  
8 ~~continuing education program before the license holder may renew~~  
9 ~~the license holder's license.~~

10           ~~[(b) A person recognized by the commission to offer a~~  
11 ~~continuing education program must:~~

12                   ~~[(1) register with the department, and~~

13                   ~~[(2) comply with rules adopted by the commission~~  
14 ~~relating to continuing education.~~

15           ~~[(c)]~~ To renew an incident management towing operator's  
16 license the first time, a license holder must complete a  
17 professional development course relating to incident management  
18 towing that is approved and administered by the department [~~under~~  
19 ~~this section~~].

20           SECTION 1.23. Section 2308.159(c), Occupations Code, is  
21 amended to read as follows:

22           (c) A license holder may renew a license issued under this  
23 chapter by:

24                   (1) submitting an application on a form prescribed by  
25 the executive director;

26                   (2) submitting evidence demonstrating compliance with  
27 the requirements for the license type as required by this chapter or

1 commission rule;

2 (3) paying a renewal fee; and

3 (4) completing any applicable continuing education  
4 requirements [~~as required by Section 2308.157~~].

5 SECTION 1.24. The following provisions are repealed:

6 (1) Section 1001.058(h), Education Code;

7 (2) Section 469.053(e), Government Code;

8 (3) Section 754.012(d), Health and Safety Code;

9 (4) Section 754.0174, Health and Safety Code;

10 (5) Section 755.016, Health and Safety Code;

11 (6) Section 51.0021, Occupations Code;

12 (7) Section 51.252(d), Occupations Code;

13 (8) Section 202.305, Occupations Code;

14 (9) Section 202.5085, Occupations Code;

15 (10) Section 203.304, Occupations Code;

16 (11) Section 203.406, Occupations Code;

17 (12) Section 401.355, Occupations Code;

18 (13) Section 402.303, Occupations Code;

19 (14) Section 403.152, Occupations Code;

20 (15) Section 455.0571, Occupations Code;

21 (16) Section 506.105, Occupations Code;

22 (17) Section 605.261, Occupations Code;

23 (18) Section 701.303, Occupations Code;

24 (19) Section 701.512, Occupations Code;

25 (20) Section 802.062(a), Occupations Code;

26 (21) Section 802.065(e), Occupations Code;

27 (22) Section 1152.204, Occupations Code;

- 1           (23)   Section 1302.208(a), Occupations Code;
- 2           (24)   Section 1305.055, Occupations Code;
- 3           (25)   Section 1305.168, Occupations Code;
- 4           (26)   Section 1901.107(a), Occupations Code;
- 5           (27)   Section 1952.1051, Occupations Code;
- 6           (28)   Section 1958.056(b), Occupations Code;
- 7           (29)   Section 2303.056(b), Occupations Code;
- 8           (30)   Section 2308.055, Occupations Code;
- 9           (31)   Section 2309.056, Occupations Code; and
- 10          (32)   Section 2309.106(a), Occupations Code.

11           SECTION 1.25.   (a)   Except as provided by Subsection (b) of  
12 this section, Section 51.054, Occupations Code, as amended by this  
13 article, applies to a member of the Texas Commission of Licensing  
14 and Regulation appointed before, on, or after September 1, 2021.

15           (b)   A member of the Texas Commission of Licensing and  
16 Regulation who, before September 1, 2021, completed the training  
17 program required by Section 51.054, Occupations Code, as that law  
18 existed before September 1, 2021, is only required to complete  
19 additional training on the subjects added by this article to the  
20 training program required by Section 51.054, Occupations Code. A  
21 member described by this subsection may not vote, deliberate, or be  
22 counted as a member in attendance at a meeting of the commission  
23 held on or after December 1, 2021, until the member completes the  
24 additional training.

## 25                               ARTICLE 2. DEREGULATION

26           SECTION 2.01.   The following provisions of the Occupations  
27 Code are repealed:

1 (1) Chapter 1703; and

2 (2) Section 2052.002(11-a).

3 SECTION 2.02. Section 54.0405(d), Family Code, is amended  
4 to read as follows:

5 (d) A polygraph examination required as a condition of  
6 probation under Subsection (a) must be administered by an  
7 individual who is [+

8 ~~[(1)]~~ specified by the local juvenile probation  
9 department supervising the child ~~[, and~~

10 ~~[(2)] licensed as a polygraph examiner under Chapter~~  
11 ~~1703, Occupations Code].~~

12 SECTION 2.03. Sections 411.0074(c) and (d), Government  
13 Code, are amended to read as follows:

14 (c) The polygraph examination required by this section may  
15 only be administered by a polygraph examiner ~~[licensed under~~  
16 ~~Chapter 1703, Occupations Code,]~~ who:

17 (1) is a peace officer commissioned by the department;  
18 or

19 (2) has a minimum of two years of experience  
20 conducting preemployment polygraph examinations for a law  
21 enforcement agency.

22 (d) The department and the polygraph examiner shall  
23 maintain the confidentiality of the results of a polygraph  
24 examination administered under this section, except that [+

25 ~~[(1)] the department and the polygraph examiner may~~  
26 ~~disclose the results in accordance with Section 1703.306,~~  
27 ~~Occupations Code, and~~

1           ~~[(2) notwithstanding Section 1703.306, Occupations~~  
2 ~~Code]~~ the department may disclose any admission of criminal  
3 conduct made during the course of an examination to another  
4 appropriate governmental entity.

5           SECTION 2.04. Section 245.053(d), Human Resources Code, is  
6 amended to read as follows:

7           (d) A polygraph examination required as a condition of  
8 release under Subsection (a) must be administered by an individual  
9 who is [+

10           ~~[(1)]~~ specified by the department [+ and

11           ~~[(2) licensed as a polygraph examiner under Chapter~~  
12 ~~1703, Occupations Code]~~.

13           SECTION 2.05. Section 2052.107, Occupations Code, is  
14 amended to read as follows:

15           Sec. 2052.107. OTHER COMBATIVE SPORTS LICENSES. Unless a  
16 person holds a license or registration issued under this chapter,  
17 the person may not act as a combative sports:

- 18           (1) professional contestant;  
19           (2) manager of a professional contestant;  
20           (3) referee; or  
21           (4) judge [+  
22           ~~[(5) second,~~  
23           ~~[(6) matchmaker, or~~  
24           ~~[(7) event coordinator]~~.

25           SECTION 2.06. On September 1, 2021, the Polygraph Advisory  
26 Committee is abolished.

27           SECTION 2.07. On September 1, 2021, a pending regulatory

1 action, including a complaint investigation, disciplinary action,  
2 or administrative penalty proceeding, of the Texas Department of  
3 Licensing and Regulation with respect to a license, permit, or  
4 certification issued under a law repealed by this article, is  
5 terminated.

6 SECTION 2.08. On September 1, 2021, a license, permit, or  
7 certification issued under a law repealed by this article expires.

8 SECTION 2.09. Not later than January 1, 2023, the Texas  
9 Department of Licensing and Regulation, in consultation with the  
10 Auctioneer Advisory Board, shall study the regulation of  
11 auctioneering and prepare a report with any findings and  
12 recommendations to improve public safety and the department's  
13 processes and to eliminate inefficiencies, including any necessary  
14 legislative changes. In conducting the study, the department may  
15 consult with any interested organizations, associations, and  
16 stakeholders. The department shall submit the report to the  
17 standing legislative committees with jurisdiction over the  
18 department.

19 ARTICLE 3. BARBERING AND COSMETOLOGY

20 SECTION 3.01. Section 1603.001, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1603.001. GENERAL DEFINITIONS. [~~4a~~] In this  
23 chapter:

24 (1) "Advisory board" means the Barbering and  
25 Cosmetology Advisory Board.

26 (2) "Commission" means the Texas Commission of  
27 Licensing and Regulation.

1           (3) ~~[(2)]~~ "Department" means the Texas Department of  
2 Licensing and Regulation.

3           (4) "Establishment" means a place:

4                   (A) in which barbering or cosmetology is  
5 practiced; and

6                   (B) that is required to hold a license issued  
7 under Subchapter E-2.

8           (5) ~~[(3)]~~ "Executive director" means the executive  
9 director of the department.

10           (6) "Manager" means the person who controls or directs  
11 the business of an establishment or directs the work of a person  
12 employed in an establishment.

13           (7) "School" means a public secondary school, public  
14 postsecondary school, or private postsecondary school:

15                   (A) in which barbering or cosmetology is taught;  
16 and

17                   (B) that is required to hold a license issued  
18 under Subchapter E-3.

19           ~~[(b) Unless the context clearly indicates otherwise, the~~  
20 ~~definitions in Chapters 1601 and 1602 apply to this chapter.]~~

21           SECTION 3.02. Subchapter A, Chapter 1603, Occupations Code,  
22 is amended by adding Sections 1603.0011, 1603.0012, and 1603.0013  
23 to read as follows:

24           Sec. 1603.0011. PRACTICE OF BARBERING OR COSMETOLOGY. (a)  
25 The practices of barbering and cosmetology consist of performing or  
26 offering to perform for compensation any of the following services:

27                   (1) treating a person's hair by:

1                   (A) providing any method of treatment as a  
2 primary service, including arranging, beautifying, bleaching,  
3 cleansing, coloring, cutting, dressing, dyeing, processing,  
4 shaping, singeing, straightening, styling, tinting, or waving;

5                   (B) providing a necessary service that is  
6 preparatory or ancillary to a service under Paragraph (A),  
7 including bobbing, clipping, cutting, or trimming a person's hair  
8 or shaving a person's neck with a safety razor; or

9                   (C) cutting the person's hair as a separate and  
10 independent service for which a charge is directly or indirectly  
11 made separately from charges for any other service;

12                  (2) treating a person's mustache or beard by  
13 arranging, beautifying, coloring, processing, styling, trimming,  
14 or shaving with a safety razor;

15                  (3) cleansing, stimulating, or massaging a person's  
16 scalp, face, neck, shoulders, or arms:

17                   (A) by hand or by using a device, apparatus, or  
18 appliance; and

19                   (B) with or without the use of any cosmetic  
20 preparation, antiseptic, tonic, lotion, or cream;

21                  (4) beautifying a person's face, neck, shoulders, or  
22 arms using a cosmetic preparation, antiseptic, tonic, lotion,  
23 powder, oil, clay, cream, or appliance;

24                  (5) administering facial treatments;

25                  (6) removing superfluous hair from a person's body  
26 using depilatories, preparations or chemicals, tweezers, or other  
27 devices or appliances of any kind or description;

1           (7) treating a person's nails by:  
2                   (A) cutting, trimming, polishing, tinting,  
3 coloring, cleansing, manicuring, or pedicuring; or  
4                   (B) attaching false nails;  
5           (8) massaging, cleansing, treating, or beautifying a  
6 person's hands or feet; or  
7           (9) weaving a person's hair by using any method to  
8 attach commercial hair to a person's hair or scalp.  
9           (b) In addition to the services described by Subsection (a),  
10 the practice of barbering includes performing or offering to  
11 perform for compensation the service of shaving a person's face,  
12 neck, mustache, or beard with a razor of any type.  
13           (c) In addition to the services described by Subsection (a),  
14 the practice of cosmetology includes performing or offering to  
15 perform for compensation the service of applying semipermanent,  
16 thread-like extensions composed of single fibers to a person's  
17 eyelashes.  
18           (d) Advertising or representing to the public in any manner  
19 that a person is licensed to perform a barbering or cosmetology  
20 service under this chapter, or that a location or place of business  
21 is an establishment or school, constitutes the practice of  
22 barbering or cosmetology.  
23           (e) In this section, "safety razor" means a razor that is  
24 fitted with a guard close to the cutting edge of the razor that is  
25 intended to:  
26                   (1) prevent the razor from cutting too deeply; and  
27                   (2) reduce the risk and incidence of accidental cuts.

1       Sec. 1603.0012. SERVICES NOT CONSTITUTING BARBERING OR  
2 COSMETOLOGY. Barbering and cosmetology do not include:

3           (1) threading, which involves removing unwanted hair  
4 from a person by using a piece of thread that is looped around the  
5 hair and pulled to remove the hair and includes the incidental  
6 trimming of eyebrow hair; or

7           (2) servicing a person's wig, toupee, or artificial  
8 hairpiece on a person's head or on a block after the initial retail  
9 sale in any manner described by Section 1603.0011(a)(1).

10       Sec. 1603.0013. APPLICATION OF CHAPTER. This chapter does  
11 not apply to a person who:

12           (1) does not represent or advertise to the public  
13 directly or indirectly that the person is authorized by the  
14 department to practice barbering or cosmetology and the person is:

15           (A) licensed in this state to practice medicine,  
16 dentistry, podiatry, chiropractic, or nursing and operating within  
17 the scope of the person's license;

18           (B) a commissioned or authorized medical or  
19 surgical officer of the United States armed forces; or

20           (C) an inmate in the institutional division of  
21 the Texas Department of Criminal Justice who performs barbering or  
22 cosmetology during the person's incarceration;

23           (2) provides a service in an emergency;

24           (3) is in the business of or receives compensation for  
25 makeup applications only;

26           (4) provides a cosmetic service as a volunteer or an  
27 employee performing regular duties at a licensed nursing or

1 convalescent custodial or personal care home to a patient residing  
2 in the home;

3           (5) owns, operates, or manages a licensed nursing or  
4 convalescent custodial or personal care home that allows a person  
5 with an operator license to perform cosmetic services for patients  
6 residing in the home on an occasional but not daily basis;

7           (6) provides an incidental cosmetic service, or owns,  
8 operates, or manages the location where that service is provided,  
9 if the primary purpose of the service is to enable or assist the  
10 recipient of the service to participate as the subject of:

11                   (A) a photographic sitting at a permanent  
12 establishment that charges a fee exclusively for a photographic  
13 sitting;

14                   (B) a television appearance; or

15                   (C) the filming of a motion picture; or

16           (7) performs only natural hair braiding, including  
17 braiding a person's hair, trimming hair extensions only as  
18 applicable to the braiding process, and attaching commercial hair  
19 by braiding and without the use of chemicals or adhesives.

20           SECTION 3.03. Section 1603.002, Occupations Code, is  
21 amended to read as follows:

22           Sec. 1603.002. REGULATION OF BARBERING AND COSMETOLOGY BY  
23 DEPARTMENT OF LICENSING AND REGULATION. The department shall  
24 administer this chapter. This chapter ~~[and Chapters 1601 and 1602.~~  
25 ~~A reference in this chapter to the commission's or department's~~  
26 ~~powers or duties applies only in relation to those chapters, except~~  
27 ~~that this section]~~ does not limit the department's or commission's

1 general powers under Chapter 51.

2 SECTION 3.04. Subchapter B, Chapter 1603, Occupations Code,  
3 is amended to read as follows:

4 SUBCHAPTER B. [~~ADVISORY BOARDS FOR~~] BARBERING AND COSMETOLOGY

5 ADVISORY BOARD

6 Sec. 1603.051. ADVISORY BOARD; MEMBERSHIP. The Barbering  
7 and Cosmetology Advisory Board consists of nine members appointed  
8 by the presiding officer of the commission, with the commission's  
9 approval, as follows:

10 (1) four members who each hold an individual  
11 practitioner license under Subchapter E-1, including:

12 (A) at least one holder of a Class A barber  
13 license; and

14 (B) at least one holder of a cosmetology operator  
15 license;

16 (2) two members who each hold an establishment  
17 license;

18 (3) two members who each hold a school license; and

19 (4) one member who represents the public.

20 Sec. 1603.052. DUTIES OF ADVISORY BOARD. (a) The advisory  
21 board [~~boards established under Chapters 1601 and 1602~~] shall  
22 advise the commission and the department on:

23 (1) education and curricula for applicants;

24 (2) the content of examinations;

25 (3) proposed rules and standards on technical issues  
26 related to barbering and cosmetology; and

27 (4) other issues affecting [~~administering this~~]

1 ~~chapter and Chapters 1601 and 1602 regarding~~ barbering and ~~[or]~~  
2 cosmetology~~[, as applicable]~~.

3 (b) The advisory board shall respond to questions from the  
4 commission and the department regarding barbering and cosmetology.

5 Sec. 1603.053. TERMS; VACANCY. (a) Members of the advisory  
6 board serve staggered six-year terms, with the terms of three  
7 members expiring January 31 of each odd-numbered year.

8 (b) If a vacancy occurs during a member's term, the  
9 presiding officer of the commission, with the commission's  
10 approval, shall appoint a replacement to fill the unexpired term.

11 Sec. 1603.054. PRESIDING OFFICER. The presiding officer of  
12 the commission shall appoint one of the advisory board members to  
13 serve as the presiding officer of the advisory board for a term of  
14 two years.

15 SECTION 3.05. Section 1603.101, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1603.101. RULES. The commission shall adopt rules  
18 consistent with this chapter for[+

19 ~~[(1)]~~ the administration of this chapter and the  
20 operations of the department in regulating barbering and  
21 cosmetology~~[, and~~

22 ~~[(2) the administration of Chapters 1601 and 1602]~~.

23 SECTION 3.06. Section 1603.103(a), Occupations Code, is  
24 amended to read as follows:

25 (a) Until the department determines, by inspection, that  
26 the person has established the school in compliance with this  
27 chapter, ~~[Chapter 1601, or Chapter 1602,]~~ a person may not operate a

1 school licensed [~~or permitted~~] under this chapter[~~, Chapter 1601,~~  
2 ~~or Chapter 1602~~].

3 SECTION 3.07. The heading to Section 1603.104, Occupations  
4 Code, is amended to read as follows:

5 Sec. 1603.104. [~~PERIODIC~~] INSPECTIONS.

6 SECTION 3.08. Sections 1603.104(a) and (d), Occupations  
7 Code, are amended to read as follows:

8 (a) The department may enter and inspect at any time during  
9 business hours:

10 (1) the place of business of any person regulated  
11 under this chapter[~~, Chapter 1601, or Chapter 1602~~]; or

12 (2) any place in which the department has reasonable  
13 cause to believe that a [~~certificate,~~] license[~~,~~] or permit holder  
14 is practicing in violation of this chapter[~~, Chapter 1601, or~~  
15 ~~Chapter 1602~~] or in violation of a rule or order of the commission  
16 or executive director.

17 (d) An inspector who discovers a violation of this chapter[~~,~~  
18 ~~Chapter 1601, or Chapter 1602~~] or of a rule or order of the  
19 commission or executive director shall[+

20 [~~(1)~~] provide written notice of the violation to the  
21 license[~~, certificate,~~] or permit holder on a form prescribed by  
22 the department[~~, and~~

23 [~~(2) file a complaint with the executive director~~].

24 SECTION 3.09. Section 1603.1045, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
27 department may contract with a person to perform for the department

1 inspections of a school or establishment [~~, shop, or other facility~~  
2 ~~under this chapter, Chapter 1601, or Chapter 1602]~~ .

3 SECTION 3.10. Subchapter C, Chapter 1603, Occupations Code,  
4 is amended by adding Section 1603.106 to read as follows:

5 Sec. 1603.106. CERTAIN BUILDING AND FACILITY STANDARDS  
6 PROHIBITED. The commission may not establish building or facility  
7 standards for a school that are not related to health and safety,  
8 including a requirement that a building or facility of the school  
9 have a specific:

- 10 (1) square footage of floor space;  
11 (2) number of chairs; or  
12 (3) number of sinks.

13 SECTION 3.11. Section 1603.151, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1603.151. NOTIFICATION OF PUBLIC INTEREST INFORMATION  
16 AND PARTICIPATION. The commission by rule shall establish methods  
17 by which consumers and service recipients are notified of the name,  
18 mailing address, and telephone number of the department for the  
19 purpose of directing complaints to the department regarding  
20 barbering and cosmetology. The department may provide for that  
21 notice:

22 (1) on each registration form, application, or written  
23 contract for services of a person regulated under this chapter [~~,~~  
24 ~~Chapter 1601, or Chapter 1602]~~ ;

25 (2) on a sign prominently displayed in the place of  
26 business of each person regulated under this chapter [~~, Chapter~~  
27 ~~1601, or Chapter 1602]~~ ; or

1 (3) in a bill for service provided by a person  
2 regulated under this chapter[~~, Chapter 1601, or Chapter 1602~~].

3 SECTION 3.12. The heading to Subchapter E, Chapter 1603,  
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER E. GENERAL [~~CERTIFICATE~~] LICENSE[~~7~~] AND PERMIT  
6 PROVISIONS [~~REQUIREMENTS~~]

7 SECTION 3.13. Subchapter E, Chapter 1603, Occupations Code,  
8 is amended by adding Section 1603.2001 to read as follows:

9 Sec. 1603.2001. RULES FOR ISSUANCE OF LICENSE OR PERMIT.

10 (a) The commission by rule shall establish requirements for the  
11 issuance of:

12 (1) a license for an individual practitioner,  
13 establishment, or school; and

14 (2) a student permit.

15 (b) Requirements established by the commission under  
16 Subsection (a) for an individual practitioner may include  
17 requirements regarding an applicant's:

18 (1) minimum age;

19 (2) education level; and

20 (3) completed hours of instruction.

21 (c) In establishing a requirement under this section for the  
22 issuance of a license, the commission shall consider whether the  
23 requirement is the least restrictive requirement possible to ensure  
24 public safety without creating a barrier to entry into the licensed  
25 occupation.

26 (d) Requirements established under this section:

27 (1) for an individual practitioner specialty license

1 may not be more stringent than requirements for a Class A barber  
2 license or a cosmetology operator license; and

3 (2) for a specialty establishment license may not be  
4 more stringent than requirements for an establishment license.

5 (e) The commission shall establish standardized  
6 requirements within license categories.

7 SECTION 3.14. Sections 1603.201 and 1603.202, Occupations  
8 Code, are amended to read as follows:

9 Sec. 1603.201. APPLICATION FORM. An application for a  
10 [~~certificate~~<sub>7</sub>] license<sub>7</sub> or permit under this chapter must be made  
11 on a form prescribed [~~and provided~~] by the department.

12 Sec. 1603.202. DUPLICATE [~~CERTIFICATE~~<sub>7</sub>] LICENSE<sub>7</sub> OR  
13 PERMIT. The department shall issue a duplicate [~~certificate~~<sub>7</sub>]  
14 license<sub>7</sub> or permit to an applicant who:

15 (1) submits an application for a duplicate  
16 [~~certificate~~<sub>7</sub>] license<sub>7</sub> or permit to the department; and

17 (2) pays the required fee.

18 SECTION 3.15. Subchapter E, Chapter 1603, Occupations Code,  
19 is amended by adding Section 1603.2025 to read as follows:

20 Sec. 1603.2025. TEMPORARY LICENSE. (a) The department may  
21 issue a temporary license.

22 (b) The commission by rule may establish requirements for  
23 the issuance of a temporary license.

24 (c) A temporary license expires on the 60th day after the  
25 date the license is issued. A temporary license may not be renewed.

26 SECTION 3.16. Sections 1603.203 and 1603.204, Occupations  
27 Code, are amended to read as follows:

1           Sec. 1603.203. PROVISIONAL [~~CERTIFICATE OR~~] LICENSE. (a)  
2   The department may issue a provisional [~~certificate or~~] license to  
3   an applicant currently licensed in another jurisdiction who seeks a  
4   [~~certificate or~~] license in this state and who:

5           (1) has been licensed in good standing in the  
6   profession for which the person seeks the [~~certificate or~~] license  
7   for at least two years in another jurisdiction, including a foreign  
8   country, that has requirements substantially equivalent to the  
9   requirements of this chapter [~~, Chapter 1601, or Chapter 1602, as~~  
10 ~~appropriate~~]; and

11          (2) has passed a national or other examination  
12 recognized by the department [~~commission~~] relating to the practice  
13 of that profession.

14          (b) A provisional [~~certificate or~~] license is valid until  
15 the date the department approves or denies the provisional  
16 [~~certificate or~~] license holder's application. The department  
17 shall issue a [~~certificate or~~] license to the provisional  
18 [~~certificate or~~] license holder if:

19           (1) the provisional [~~certificate or~~] license holder is  
20 eligible to hold a [~~certificate or~~] license under this chapter  
21 [~~Chapter 1601 or Chapter 1602~~]; or

22           (2) the provisional [~~certificate or~~] license holder  
23 passes the part of the examination [~~under Chapter 1601 or Chapter~~  
24 ~~1602~~] that relates to the applicant's knowledge and understanding  
25 of the laws and rules relating to the practice of the profession in  
26 this state and:

27           (A) the department verifies that the provisional

1 ~~[certificate or]~~ license holder meets the education ~~[academic]~~ and  
2 experience requirements for the ~~[certificate or]~~ license; and

3 (B) the provisional ~~[certificate or]~~ license  
4 holder satisfies any other ~~[certificate or]~~ license requirements.

5 (c) The department must approve or deny a provisional  
6 ~~[certificate or]~~ license holder's application for a ~~[certificate~~  
7 ~~or]~~ license not later than the 180th day after the date the  
8 provisional ~~[certificate or]~~ license is issued. The department may  
9 extend the 180-day period if the results of an examination have not  
10 been received by the department before the end of that period.

11 Sec. 1603.204. SUBSTANTIALLY EQUIVALENT ~~[RECIPROCAL~~  
12 ~~CERTIFICATE,]~~ LICENSE~~[, OR PERMIT]~~. (a) A person who holds a  
13 license~~[, certificate, or permit]~~ to practice barbering or  
14 cosmetology from another state or country that has standards or  
15 work experience requirements that are substantially equivalent to  
16 the requirements of this chapter ~~[, Chapter 1601, or Chapter 1602]~~  
17 may apply for a license~~[, certificate, or permit]~~ to perform the  
18 same acts of barbering or cosmetology in this state that the person  
19 practiced in the other state or country.

20 (b) The person must:

21 (1) submit an application for the license~~[,~~  
22 ~~certificate, or permit]~~ to the department; and

23 (2) pay fees in an amount prescribed by the  
24 commission, including any applicable license~~[, certificate, or~~  
25 ~~permit]~~ fee.

26 (c) A person issued a license~~[, certificate, or permit]~~  
27 under this section:

1 (1) may perform the acts of barbering or cosmetology  
2 authorized by [~~stated on~~] the license[, ~~certificate, or permit~~];  
3 and

4 (2) is subject to the renewal procedures and fees  
5 provided in this chapter [~~, Chapter 1601, or Chapter 1602~~] for the  
6 performance of those acts of barbering or cosmetology.

7 SECTION 3.17. Sections 1603.208(a)(2) and (3), Occupations  
8 Code, are amended to read as follows:

9 (2) "Digitally prearranged remote service" means a  
10 barbering or cosmetology service performed for compensation by a  
11 person holding a license[, ~~certificate of registration, or permit~~]  
12 under Subchapter E-1 [~~Chapter 1601 or 1602 or this chapter~~] that is:

13 (A) prearranged through a digital network; and

14 (B) performed at a location other than an  
15 establishment [~~a place of business that is~~] licensed [~~or permitted~~]  
16 under Subchapter E-2 [~~Chapter 1601 or 1602 or this chapter~~].

17 (3) "Remote service business" means a corporation,  
18 partnership, sole proprietorship, or other entity that, for  
19 compensation, enables a client to schedule a digitally prearranged  
20 remote service with a person holding a license[, ~~certificate of~~  
21 ~~registration, or permit~~] under Subchapter E-1 [~~Chapter 1601 or 1602~~  
22 ~~or this chapter~~].

23 SECTION 3.18. Sections 1603.208(c), (d), (f), (g), and (i),  
24 Occupations Code, are amended to read as follows:

25 (c) Sections 1603.2108 and 1603.2109 [~~1601.453, 1601.455,~~  
26 ~~1602.251(c), and 1602.407~~] do not apply to a digitally prearranged  
27 remote service scheduled through a remote service business.

1 (d) A person who holds a license[~~, certificate of~~  
2 ~~registration, or permit~~] to practice barbering or cosmetology and  
3 who performs a digitally prearranged remote service shall:

4 (1) comply with this section and the rules adopted  
5 under this section; and

6 (2) practice within the scope of the person's  
7 license[~~, certificate of registration, or permit~~].

8 (f) Before a person licensed[~~, registered, or permitted~~] to  
9 practice barbering or cosmetology performs a digitally prearranged  
10 remote service for a client requesting the service, a remote  
11 service business must [~~shall~~] provide through the entity's digital  
12 network:

13 (1) the following information regarding the person who  
14 will perform the service:

15 (A) the person's first and last name;

16 (B) the [~~number of the~~] person's license number[~~,~~   
17 ~~certificate of registration, or permit, as applicable~~]; and

18 (C) a photograph of the person;

19 (2) the following information regarding the business:

20 (A) Internet website address; and

21 (B) telephone number; and

22 (3) the department's Internet website address and  
23 telephone number and notice that the client may contact the  
24 department to file a complaint against the business or person.

25 (g) Within a reasonable time after completion of a digitally  
26 prearranged remote service, the remote service business shall issue  
27 to the client who requested the service a receipt that includes:

- 1           (1) the date the service was provided;
- 2           (2) a description of the service;
- 3           (3) the first and last name of the person who performed
- 4 the service;
- 5           (4) the ~~[number of the]~~ person's license number~~[~~
- 6 ~~certificate of registration, or permit, as applicable]~~;
- 7           (5) the following information regarding the business:
- 8               (A) Internet website address; and
- 9               (B) telephone number; and
- 10          (6) the department's Internet website address and
- 11 telephone number and notice that the client may contact the
- 12 department to file a complaint against the business or person.
- 13          (i) A remote service business shall terminate a person's
- 14 access to the business's digital network if the business or
- 15 department determines the person violated:
- 16               (1) this chapter; or
- 17               (2) a rule adopted under this chapter~~[~~
- 18 ~~[(3) Chapter 1601 or 1602, or~~
- 19 ~~[(4) a rule adopted under Chapter 1601 or 1602].~~

20          SECTION 3.19. Subchapter E, Chapter 1603, Occupations Code,

21 is amended by adding Section 1603.209 to read as follows:

22          Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A

23 person holding a license or permit issued under Subchapter E-1 may

24 not perform any practice of barbering or cosmetology if the person

25 knows the person is suffering from an infectious or contagious

26 disease for which the person is not entitled to protection under the

27 federal Americans with Disabilities Act of 1990 (42 U.S.C. Section

1 12101 et seq.).

2       (b) A person holding an establishment or school license may  
3 not employ a person to perform any practice of barbering or  
4 cosmetology or to instruct in the practice of barbering or  
5 cosmetology if the license holder knows that the person is  
6 suffering from an infectious or contagious disease for which the  
7 person is not entitled to protection under the federal Americans  
8 with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

9       SECTION 3.20. Chapter 1603, Occupations Code, is amended by  
10 adding Subchapters E-1, E-2, and E-3 to read as follows:

11 SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER LICENSES; STUDENT PERMIT;  
12 PRACTICE

13 Sec. 1603.2101. INDIVIDUAL PRACTITIONER LICENSE OR STUDENT  
14 PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED.

15 (a) A person may not perform or offer or attempt to perform any act  
16 of barbering or cosmetology unless the person holds a license or  
17 permit issued under this subchapter to perform that act.

18 (b) Unless the person holds an appropriate license issued  
19 under this subchapter, a person may not directly or indirectly use  
20 or cause to be used as a professional or business identification,  
21 title, name, representation, asset, or means of advantage or  
22 benefit:

23       (1) the term "barber" or "barbering";

24       (2) the term "cosmetologist" or "cosmetology"; or

25       (3) any combination, variation, or abbreviation of the  
26 terms listed in Subdivisions (1) and (2).

27 Sec. 1603.2102. ISSUANCE OF INDIVIDUAL PRACTITIONER

1 LICENSE. The department shall issue an individual practitioner  
2 license to an applicant who:

- 3 (1) meets the applicable eligibility requirements;
- 4 (2) passes the applicable examination;
- 5 (3) pays the required fee;
- 6 (4) has not committed an act that constitutes a ground  
7 for denial of the license; and
- 8 (5) submits an application on a form prescribed by the  
9 department.

10 Sec. 1603.2103. INDIVIDUAL PRACTITIONER LICENSES. (a) A  
11 person holding:

- 12 (1) a Class A barber license may perform any barbering  
13 service;
- 14 (2) a cosmetology operator license may perform any  
15 cosmetology service;
- 16 (3) a manicurist license may perform any service  
17 described by Section 1603.0011(a)(7) or (8);
- 18 (4) an esthetician license may perform any service  
19 described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);
- 20 (5) a manicurist/esthetician license may perform any  
21 service described by Section 1603.0011(a)(3), (4), (5), (6), (7),  
22 or (8) or (c);
- 23 (6) a hair weaving specialist license may perform any  
24 service described by Section 1603.0011(a)(9);
- 25 (7) a hair weaving specialist/esthetician license may  
26 perform any service described by Section 1603.0011(a)(3), (4), (5),  
27 (6), or (9) or (c); and

1           (8) an eyelash extension specialist license may  
2 perform any service described by Section 1603.0011(c).

3           (b) The commission by rule shall provide for the issuance  
4 of:

5           (1) a Class A barber license to a person who holds a  
6 cosmetology operator license; and

7           (2) a cosmetology operator license to a person who  
8 holds a Class A barber license.

9           Sec. 1603.2104. WAIVER OF CERTAIN LICENSE REQUIREMENTS.

10 (a) The department may waive any requirement for a license issued  
11 under this subchapter for an applicant holding a license from  
12 another jurisdiction that has license requirements substantially  
13 equivalent to those of this state.

14           (b) The department shall issue a license to an applicant  
15 under Subsection (a) if the applicant:

16           (1) submits an application on a form prescribed by the  
17 department;

18           (2) pays the application fee; and

19           (3) provides proof that the applicant holds a current  
20 license to engage in the same or a similar activity issued by  
21 another jurisdiction that has license requirements substantially  
22 equivalent to those of this state.

23           (c) The department may not require a personal interview as  
24 part of the application process under this section.

25           (d) A license issued under this section may be renewed as  
26 provided by Subchapter G.

27           Sec. 1603.2105. STUDENT PERMIT. (a) A student enrolled in

1 a school licensed under Subchapter E-3 must hold a permit stating  
2 the student's name and the name of the school.

3 (b) The department shall issue a student permit to an  
4 applicant who submits an application to the department for a  
5 student permit accompanied by the required fee.

6 (c) A separate application is required for each enrollment.  
7 The application fee applies only to the first enrollment. The  
8 department may not charge the application fee for any later  
9 enrollment.

10 Sec. 1603.2106. TRANSFER OF LICENSE OR PERMIT PROHIBITED.  
11 A license or permit issued under this subchapter is not  
12 transferable.

13 Sec. 1603.2107. DISPLAY OF LICENSE OR PERMIT. (a) The  
14 holder of a license issued under this subchapter shall:

15 (1) display the original license and an attached  
16 photograph of the license holder in a conspicuous place near the  
17 license holder's work chair in the establishment in which the  
18 holder is working; or

19 (2) make available at the reception desk of the  
20 establishment in which the holder is working, in the manner  
21 prescribed by the department:

22 (A) the original license and an attached  
23 photograph of the license holder; or

24 (B) a digital image of the license and photograph  
25 of the license holder.

26 (b) The holder of a student permit issued under this  
27 subchapter shall display the permit in a reasonable manner at the

1 school in which the permit holder is enrolled.

2 Sec. 1603.2108. LOCATION OF PRACTICE. A person holding a  
3 license or permit issued under this subchapter may practice  
4 barbering or cosmetology only at a licensed establishment or  
5 school.

6 Sec. 1603.2109. SERVICE AT UNLICENSED LOCATION. (a) In  
7 this section, "licensed facility" means:

8 (1) an establishment licensed under Subchapter E-2; or

9 (2) a school licensed under Subchapter E-3.

10 (b) A person holding a license under this subchapter may  
11 perform a service within the scope of the license at a location  
12 other than a licensed facility for a client:

13 (1) who, because of illness or physical or mental  
14 incapacitation, is unable to receive the service at a licensed  
15 facility; or

16 (2) in preparation for and at the location of a special  
17 event, including a wedding.

18 (c) An appointment for a service performed under this  
19 section must be made through a licensed facility.

20 SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

21 Sec. 1603.2201. LICENSE REQUIRED. (a) A person may not  
22 own, operate, or manage an establishment in which an act of  
23 barbering or cosmetology is practiced unless the person holds a  
24 license issued under this subchapter to operate the establishment.

25 (b) A person may not lease space on the premises of a  
26 licensed establishment to engage in the practice of barbering or  
27 cosmetology as an independent contractor unless the person holds a

1 license issued under Subchapter E-1.

2 Sec. 1603.2202. ISSUANCE OF LICENSE. The department shall  
3 issue the applicable establishment license under this subchapter to  
4 an applicant if:

5 (1) the applicant:

6 (A) owns or rents the establishment;

7 (B) verifies the application;

8 (C) complies with the application requirements  
9 of this chapter;

10 (D) pays the required inspection and license  
11 fees; and

12 (E) has not committed an act that constitutes a  
13 ground for denial of a license; and

14 (2) the establishment:

15 (A) meets the commission's minimum health  
16 standards for an establishment; and

17 (B) complies with all commission rules.

18 Sec. 1603.2203. ESTABLISHMENT LICENSES. (a) An  
19 establishment licensed as:

20 (1) an establishment may provide any barbering or  
21 cosmetology service;

22 (2) a manicurist specialty establishment may provide  
23 any service described by Section 1603.0011(a)(7) or (8);

24 (3) an esthetician specialty establishment may  
25 provide any service described by Section 1603.0011(a)(3), (4), (5),  
26 or (6) or (c);

27 (4) a manicurist/esthetician specialty establishment

1 may provide any service described by Section 1603.0011(a)(3), (4),  
2 (5), (6), (7), or (8) or (c);

3 (5) a hair weaving specialty establishment may provide  
4 any service described by Section 1603.0011(a)(9);

5 (6) an eyelash extension specialty establishment may  
6 provide any service described by Section 1603.0011(c);

7 (7) a mini-establishment may provide any barbering or  
8 cosmetology service; and

9 (8) a mobile establishment may provide any barbering  
10 or cosmetology service.

11 (b) In this section:

12 (1) "Mini-establishment" includes a room or suite of  
13 rooms that is one of a number of connected establishments in a  
14 single premises that open onto a common hallway or another  
15 configuration of operations as authorized by the department in  
16 which a person practices under a license issued under Subchapter  
17 E-1.

18 (2) "Mobile establishment" means a facility that is  
19 readily movable and where barbering, cosmetology, or both are  
20 practiced other than at a fixed location.

21 Sec. 1603.2204. TRANSFER OF LICENSE PROHIBITED. A license  
22 issued under this subchapter is not transferable.

23 Sec. 1603.2205. USE OF ESTABLISHMENT AS SLEEPING QUARTERS  
24 PROHIBITED. (a) An owner or manager of a licensed establishment  
25 may not permit a person to sleep in a room used as part of the  
26 establishment.

27 (b) A person may not perform an act for which a license is

1 required in a room in an establishment that is used as sleeping  
2 quarters.

3 SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

4 Sec. 1603.2301. LICENSE REQUIRED. A person may not operate  
5 a school for instruction in the practice of barbering or  
6 cosmetology unless the person holds a license issued under this  
7 subchapter to operate the school.

8 Sec. 1603.2302. ISSUANCE OF LICENSE. The department shall  
9 issue a license under this subchapter to an applicant who, as  
10 applicable:

11 (1) submits an application on a form prescribed by the  
12 department;

13 (2) pays the required fee;

14 (3) provides to the department adequate proof of  
15 financial responsibility;

16 (4) meets the health and safety standards established  
17 by the commission; and

18 (5) satisfies any other requirements of this chapter  
19 or commission rule.

20 Sec. 1603.2303. SCHOOL LICENSES; INSTRUCTORS; ENFORCEMENT.

21 (a) The holder of a public secondary school license, public  
22 postsecondary school license, or private postsecondary school  
23 license:

24 (1) may provide instruction in the barbering or  
25 cosmetology services for which the license holder has been approved  
26 by the department; and

27 (2) may only employ to provide the instruction

1 described by Subdivision (1) a person who holds a license issued  
2 under Subchapter E-1 to perform the acts of barbering or  
3 cosmetology for which the person will provide instruction.

4 (b) The department may take any disciplinary or other  
5 enforcement action against a person who violates Subsection (a)(2).

6 Sec. 1603.2304. CHANGE OF SCHOOL OWNERSHIP OR LOCATION.

7 (a) If a licensed school changes ownership:

8 (1) the outgoing owner shall notify the department of  
9 the change not later than the 10th day before the date the change  
10 takes effect; and

11 (2) the new owner shall obtain a license under this  
12 subchapter in accordance with commission rule.

13 (b) A school may not change the location of the school  
14 unless the school obtains approval from the department before the  
15 change by showing that the proposed location meets the requirements  
16 of this chapter and commission rules.

17 Sec. 1603.2305. SIGNS REQUIRED. The holder of a school  
18 license shall place a sign on the front outside portion of the  
19 school's building in a prominent place that reads "SCHOOL--STUDENT  
20 PRACTITIONERS" in:

21 (1) at least 10-inch block letters; or

22 (2) a manner prescribed by the department.

23 Sec. 1603.2306. INFORMATION PROVIDED TO PROSPECTIVE  
24 STUDENT. The holder of a school license shall provide to each  
25 prospective student, as applicable:

26 (1) a course outline;

27 (2) a schedule of the tuition and other fees assessed;

1           (3) the school's refund policy required under Section  
2 1603.3602;

3           (4) the school's grading policy and rules relating to  
4 incomplete grades;

5           (5) the school's rules of operation and conduct,  
6 including rules relating to absences;

7           (6) the department's name, mailing address, and  
8 telephone number for the purpose of directing complaints to the  
9 department; and

10          (7) the current job placement rates and employment  
11 rates of students who complete a course of instruction.

12          Sec. 1603.2307. COURSE LENGTH AND CURRICULUM CONTENT. (a)  
13 A school shall design course length and curriculum content to  
14 reasonably ensure that a student develops the job skills and  
15 knowledge necessary for employment.

16          (b) A school must submit to the department for approval the  
17 course length and curriculum content for each course offered by the  
18 school. The school may not implement a course length and curriculum  
19 content without the approval of the department.

20          (c) Before issuing or renewing a license under this  
21 subchapter, the department must require the school to account for  
22 each course length and curriculum content.

23          Sec. 1603.2308. REQUIRED COURSES. (a) A school shall  
24 instruct students in the theory and practice of subjects necessary  
25 and beneficial to the practice of barbering and cosmetology.

26          (b) The commission by rule shall establish the subjects in  
27 which students shall receive instruction.

1        (c) A school may not increase, decrease, or withhold for any  
2 reason the number of hours earned by a student.

3        Sec. 1603.2309. DAILY ATTENDANCE RECORDS. (a) A school  
4 shall maintain an attendance record showing the students' daily  
5 attendance.

6        (b) The department may inspect a school's attendance  
7 records at any time.

8        Sec. 1603.2310. INSTRUCTOR-TO-STUDENT RATIO. A licensed  
9 school must have at least one instructor for every 25 students on  
10 the school's premises.

11       Sec. 1603.2311. REPORTS TO DEPARTMENT. (a) A licensed  
12 school shall maintain a monthly progress report regarding each  
13 student attending the school. The report must certify the daily  
14 attendance record of each student and the number of hours earned by  
15 each student during the previous month.

16       (b) On a student's completion of a prescribed course of  
17 instruction, the school shall notify the department that the  
18 student has completed the required number of hours and is eligible  
19 to take the appropriate examination.

20       (c) The holder of a school license shall provide to the  
21 department on request:

22           (1) the current course completion rates of students  
23 who attend a course of instruction offered by the school; and

24           (2) job placement rates and employment rates of  
25 students who complete a course of instruction.

26       Sec. 1603.2312. ADDITIONAL DUTIES OF LICENSE HOLDER. The  
27 holder of a school license shall:

- 1           (1) maintain a sanitary premises;  
2           (2) establish regular class and instruction hours and  
3 grades;  
4           (3) hold examinations before issuing diplomas; and  
5           (4) maintain a copy of the school's curriculum in a  
6 conspicuous place and verify that the curriculum is being followed.

7           Sec. 1603.2313. TRANSFER OF HOURS OF INSTRUCTION. (a) A  
8 student at a licensed school may transfer completed hours of  
9 instruction to another licensed school in this state.

10          (b) In order for the hours of instruction to be transferred,  
11 a transcript showing the completed courses and number of hours  
12 certified by the school in which the instruction was given must be  
13 submitted to the department.

14          (c) In evaluating a student's transcript, the department  
15 shall determine whether the agreed tuition has been paid. If the  
16 tuition has not been paid, the department shall notify the student  
17 that the student's transcript cannot be certified to the school to  
18 which the student seeks a transfer until proof is provided that the  
19 tuition has been paid.

20          (d) On evaluation and approval, the department shall  
21 certify in writing to the student and to the school to which the  
22 student seeks a transfer that:

- 23           (1) the stated courses and hours have been  
24 successfully completed; and  
25           (2) the student is not required to repeat the hours of  
26 instruction.

27          Sec. 1603.2314. IDENTIFICATION OF AND WORK PERFORMED BY

1 STUDENT. (a) Each licensed school shall maintain in a conspicuous  
2 place a list of the names and identifying pictures of the students  
3 who are enrolled in the school's courses.

4 (b) A school may not receive compensation for work done by a  
5 student unless the student has completed 10 percent of the required  
6 number of hours for a license under Subchapter E-1.

7 (c) If a school violates this section, the license of the  
8 school may be revoked or suspended.

9 SECTION 3.21. Section 1603.252(b), Occupations Code, is  
10 amended to read as follows:

11 (b) The executive director shall determine uniform  
12 standards for acceptable performance on an examination for a  
13 license under Subchapter E-1 [~~or certificate under Chapter 1601 and~~  
14 ~~for a license or certificate under Chapter 1602~~].

15 SECTION 3.22. Sections 1603.253 and 1603.255, Occupations  
16 Code, are amended to read as follows:

17 Sec. 1603.253. WRITTEN EXAMINATION. The department  
18 [~~commission~~] shall select an examination for each written  
19 examination required under this chapter [~~, Chapter 1601, or Chapter~~  
20 ~~1602~~]. The written examination must be:

21 (1) validated by an independent testing professional;  
22 or

23 (2) purchased from a national testing service.

24 Sec. 1603.255. EARLY EXAMINATION. The commission by rule  
25 [~~department~~] may allow for the early written examination of a  
26 student [~~who has completed the following number of hours of~~  
27 ~~instruction in a department-approved training program:~~

1           ~~[(1) 1,000 hours for a student seeking a Class A barber~~  
2 ~~certificate in a private barber school,~~  
3           ~~[(2) 900 hours for a student seeking an operator~~  
4 ~~license in a private cosmetology school, or~~  
5           ~~[(3) 900 hours for a student seeking a Class A barber~~  
6 ~~certificate or operator license in a publicly funded barber or~~  
7 ~~cosmetology school].~~

8           SECTION 3.23. Sections 1603.256(a) and (c), Occupations  
9 Code, are amended to read as follows:

10          (a) The commission may require a practical examination as it  
11 considers necessary for a license ~~[or certificate]~~ issued under  
12 Subchapter E-1 [Chapter 1601 or 1602].

13          (c) The following persons may administer a practical  
14 examination ~~[required under this subchapter]~~:

15               (1) the department;

16               (2) a person with whom the department contracts under  
17 Section 1603.252;

18               (3) a licensed ~~[barber]~~ school~~[, private beauty~~  
19 ~~culture school, or a public secondary or postsecondary beauty~~  
20 ~~culture school]~~ that is approved by the department to administer  
21 the examination under Section 1603.252; or

22               (4) the Windham School District.

23           SECTION 3.24. Subchapter G, Chapter 1603, Occupations Code,  
24 is amended to read as follows:

25           SUBCHAPTER G. ~~[CERTIFICATE,]~~ LICENSE~~[, AND PERMIT]~~ RENEWAL

26           Sec. 1603.3001. LICENSE TERMS. (a) Except as provided by  
27 Subsection (b), a license other than a temporary license expires on

1 the second anniversary of the date the license is issued.

2 (b) A school license expires on the first anniversary of the  
3 date the license is issued.

4 Sec. 1603.3002. RENEWAL RULES. (a) The commission by rule  
5 may establish requirements for the renewal of a license issued  
6 under this chapter, including continuing education requirements.

7 (b) The commission may establish separate requirements for:

8 (1) the initial renewal of a license; and

9 (2) subsequent renewals of a license.

10 (c) Before establishing continuing education requirements  
11 under this section, the commission must consider the potential  
12 impact of continuing education with respect to:

13 (1) identifying and assisting trafficked persons; and

14 (2) providing license holders with opportunities to  
15 acquire new skills.

16 Sec. 1603.3003. ISSUANCE OF RENEWAL LICENSE. The  
17 department shall issue a renewal license on receipt of:

18 (1) a renewal application in the form prescribed by  
19 the department; and

20 (2) any renewal fee.

21 Sec. 1603.3004. RENEWAL WHILE IN ARMED FORCES. (a) The  
22 department may not require the holder of a license issued under  
23 Subchapter E-1 who is serving on active duty in the United States  
24 armed forces to renew the person's license.

25 (b) The department shall issue a renewal license on  
26 application and payment of the required renewal fee not later than  
27 the 90th day after the date the person is released or discharged

1 from active duty in the United States armed forces.

2       Sec. 1603.301. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE  
3 PENALTY. The department may deny a person's request to renew a  
4 [~~certificate,~~] license[~~, or permit~~] issued under this chapter[~~, or~~  
5 ~~Chapter 1601, or Chapter 1602~~] if the person has not paid an  
6 administrative penalty imposed under Subchapter F, Chapter  
7 51. This section does not apply if:

8               (1) the person's time to pay or request a hearing has  
9 not expired under Section 51.304;

10              (2) the person has requested a hearing under Section  
11 51.304, but the person's time to pay has not expired under Section  
12 51.307; or

13              (3) the penalty is stayed.

14       SECTION 3.25. The heading to Subchapter H, Chapter 1603,  
15 Occupations Code, is amended to read as follows:

16       SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO MORE THAN ONE  
17               LICENSE TYPE [~~CHAPTERS 1601 AND 1602~~]

18       SECTION 3.26. Section 1603.351, Occupations Code, is  
19 amended to read as follows:

20       Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE  
21 EDUCATION. (a) The commission shall prescribe the minimum  
22 curriculum, including the subjects and the number of hours in each  
23 subject, taught by a licensed school [~~licensed under this chapter,~~  
24 ~~Chapter 1601, or Chapter 1602~~].

25              (a-1) Notwithstanding any other law, the commission may  
26 adopt rules to:

27              (1) authorize a licensed school [~~licensed under this~~

~~chapter, Chapter 1601, or Chapter 1602]~~ to account for any hours of instruction completed under this chapter ~~[those chapters]~~ on the basis of clock hours or credit hours; and

(2) establish standards for determining the equivalency and conversion of clock hours to credit hours and credit hours to clock hours.

(b) The commission may adopt rules allowing distance education only for the theory portion of the curriculum taught by a licensed school ~~[licensed under this chapter, Chapter 1601, or Chapter 1602]~~.

(c) Distance education does not satisfy the requirements of the practical portion of the curriculum taught by a licensed school ~~[licensed under this chapter, Chapter 1601, or Chapter 1602]~~.

SECTION 3.27. Sections 1603.352(a) and (b), Occupations Code, are amended to read as follows:

(a) A person who holds a license~~[, certificate,]~~ or permit issued under this chapter~~[, Chapter 1601, or Chapter 1602]~~ and who performs a ~~[barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology]~~ service described by Section 1603.0011(a)(7) or (8) ~~[1602.002(a)(8) or (9)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.

(b) The owner or manager of a licensed establishment or

1 ~~[barber shop, barber]~~ school~~[, beauty shop, specialty shop, beauty~~  
2 ~~culture school, or other facility licensed under this chapter,~~  
3 ~~Chapter 1601, or Chapter 1602,~~] is responsible for providing an  
4 autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for  
5 use in the establishment ~~[shop]~~ or school as required by Subsection  
6 (a).

7 SECTION 3.28. Subchapter H, Chapter 1603, Occupations Code,  
8 is amended by adding Sections 1603.353, 1603.354, 1603.355,  
9 1603.356, 1603.357, and 1603.358 to read as follows:

10 Sec. 1603.353. EMPLOYMENT OF LICENSE HOLDER. (a) A  
11 licensed school may not employ a person holding a license issued  
12 under Subchapter E-1 solely to perform the practices of barbering  
13 or cosmetology for which the person is licensed.

14 (b) A person holding a license for an establishment may not  
15 employ or lease to a person to practice barbering or cosmetology at  
16 the establishment unless the person holds a license issued under  
17 Subchapter E-1.

18 Sec. 1603.354. NECESSARY EQUIPMENT. The owner, operator,  
19 or manager of a licensed establishment or school shall equip the  
20 establishment or school with the facilities, supplies, appliances,  
21 furnishings, and materials necessary to enable a person employed on  
22 the premises to comply with this chapter.

23 Sec. 1603.355. DISPLAY OF LICENSE. A licensed school or  
24 establishment shall display the license in a conspicuous place in  
25 the school or establishment for which the license is issued.

26 Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION.

27 (a) A licensed school or establishment shall display a sign

1 approved by or acceptable to the commission or the department  
2 concerning services and assistance available to victims of human  
3 trafficking.

4 (b) The sign required by this section must:

5 (1) be in English, Spanish, Vietnamese, and any other  
6 language required by commission rule; and

7 (2) include a toll-free telephone number of a  
8 nationally recognized information and referral hotline for victims  
9 of human trafficking.

10 (c) The commission by rule shall establish requirements  
11 regarding the posting of signs under this section.

12 Sec. 1603.357. DISPLAY OF SANITATION RULES. A licensed  
13 school or establishment shall display a copy of the commission's  
14 sanitation rules.

15 Sec. 1603.358. OPERATION OF ESTABLISHMENT AND SCHOOL ON  
16 SINGLE PREMISES. A person may not operate an establishment on the  
17 same premises as a school unless the facilities are separated by  
18 walls of permanent construction without an opening between the  
19 facilities.

20 SECTION 3.29. Chapter 1603, Occupations Code, is amended by  
21 adding Subchapter H-1 to read as follows:

22 SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE

23 POSTSECONDARY SCHOOLS

24 Sec. 1603.3601. CANCELLATION AND SETTLEMENT POLICY. The  
25 holder of a private postsecondary school license shall maintain a  
26 cancellation and settlement policy that provides a full refund of  
27 money paid by a student if the student:

1           (1) cancels the enrollment agreement or contract not  
2 later than midnight of the third day after the date the agreement or  
3 contract is signed by the student, excluding Saturdays, Sundays,  
4 and legal holidays; or

5           (2) entered into the enrollment agreement or contract  
6 because of a misrepresentation made:

7                 (A) in the advertising or promotional materials  
8 of the school; or

9                 (B) by an owner or representative of the school.

10         Sec. 1603.3602. REFUND POLICY. (a) The holder of a private  
11 postsecondary school license shall maintain a refund policy to  
12 provide for the refund of any unused parts of tuition, fees, and  
13 other charges paid by a student who, at the expiration of the  
14 cancellation period established under Section 1603.3601:

15                 (1) fails to enter the course of training;

16                 (2) withdraws from the course of training; or

17                 (3) is terminated from the course of training before  
18 completion of the course.

19         (b) The refund policy must provide that:

20                 (1) the refund is based on the period of the student's  
21 enrollment, computed on the basis of course time expressed in  
22 scheduled hours, as specified by an enrollment agreement, contract,  
23 or other document acceptable to the department;

24                 (2) the effective date of the termination for refund  
25 purposes is the earliest of:

26                         (A) the last date of attendance, if the student  
27 is terminated by the school;

1                   (B) the date the license holder receives the  
2 student's written notice of withdrawal; or

3                   (C) 10 school days after the last date of  
4 attendance; and

5                   (3) the school may retain not more than \$100 if:

6                   (A) tuition is collected before the course of  
7 training begins; and

8                   (B) the student does not begin the course of  
9 training before the cancellation period established under Section  
10 1603.3601 expires.

11           Sec. 1603.3603. WITHDRAWAL OR TERMINATION OF STUDENT. (a)  
12 If a student at a private postsecondary school begins a course of  
13 training that is scheduled to run not more than 12 months and,  
14 during the last 50 percent of the course, withdraws from the course  
15 or is terminated by the school, the school:

16                   (1) may retain 100 percent of the tuition and fees paid  
17 by the student; and

18                   (2) is not obligated to refund any additional  
19 outstanding tuition.

20           (b) If a student at a private postsecondary school begins a  
21 course of training that is scheduled to run not more than 12 months  
22 and, before the last 50 percent of the course, withdraws from the  
23 course or is terminated by the school, the school shall refund:

24                   (1) 90 percent of any outstanding tuition for a  
25 withdrawal or termination that occurs during the first week or  
26 first 10 percent of the course, whichever period is shorter;

27                   (2) 80 percent of any outstanding tuition for a

1 withdrawal or termination that occurs after the first week or first  
2 10 percent of the course, whichever period is shorter, but within  
3 the first three weeks of the course;

4 (3) 75 percent of any outstanding tuition for a  
5 withdrawal or termination that occurs after the first three weeks  
6 of the course but not later than the completion of the first 25  
7 percent of the course; and

8 (4) 50 percent of any outstanding tuition for a  
9 withdrawal or termination that occurs not later than the completion  
10 of the first 50 percent of the course.

11 (c) A refund owed under this section must be paid not later  
12 than the 30th day after the date the student becomes eligible for  
13 the refund.

14 Sec. 1603.3604. INTEREST ON REFUND. (a) If tuition is not  
15 refunded within the period required by Section 1603.3603, the  
16 private postsecondary school shall pay interest on the amount of  
17 the refund for the period beginning the first day after the date the  
18 refund period expires and ending the day preceding the date the  
19 refund is made.

20 (b) If tuition is refunded to a lending institution, the  
21 interest shall be paid to that institution and applied against the  
22 student's loan.

23 (c) The commissioner of education shall annually set the  
24 interest rate at a rate sufficient to deter a school from retaining  
25 money paid by a student.

26 (d) The department may exempt a school from the payment of  
27 interest if the school makes a good faith effort to refund the

1 tuition but is unable to locate the student. The school shall  
2 provide to the department on request documentation of the effort to  
3 locate the student.

4 Sec. 1603.3605. REENTRY OF STUDENT AFTER WITHDRAWAL. If a  
5 student voluntarily withdraws or is terminated after completing 50  
6 percent of the course at a private postsecondary school, the school  
7 shall allow the student to reenter at any time during the 48-month  
8 period following the date of withdrawal or termination unless the  
9 student presents a danger to the other students or staff of the  
10 school.

11 Sec. 1603.3606. EFFECT OF STUDENT WITHDRAWAL. (a) A  
12 private postsecondary school shall record a grade of incomplete for  
13 a student who withdraws but is not entitled to a refund under  
14 Section 1603.3603 if the student:

15 (1) requests the grade at the time the student  
16 withdraws; and

17 (2) withdraws for an appropriate reason unrelated to  
18 the student's academic status.

19 (b) A student who receives a grade of incomplete may  
20 reenroll in the program during the 48-month period following the  
21 date the student withdraws and complete the subjects without  
22 payment of additional tuition.

23 Sec. 1603.3607. EFFECT OF PRIVATE POSTSECONDARY SCHOOL  
24 CLOSURE. (a) If a private postsecondary school closes, the  
25 department shall attempt to arrange for students enrolled in the  
26 closed school to attend another private postsecondary school.

27 (b) If a student from a closed school is placed in another

1 private postsecondary school, the expense incurred by the school in  
2 providing training directly related to educating the student,  
3 including the applicable tuition for the period for which the  
4 student paid tuition, shall be paid from the barbering and  
5 cosmetology school tuition protection account.

6 (c) If a student from a closed private postsecondary school  
7 cannot be placed in another private postsecondary school, the  
8 student's tuition and fees shall be refunded as provided by Section  
9 1603.3602. If a student from a closed private postsecondary school  
10 does not accept a place that is available and reasonable in another  
11 private postsecondary school, the student's tuition and fees shall  
12 be refunded as provided by Section 1603.3603. A refund under this  
13 subsection shall be paid from the barbering and cosmetology school  
14 tuition protection account. The amount of the refund may not exceed  
15 \$35,000.

16 (d) If another private postsecondary school assumes  
17 responsibility for the closed school's students and there are no  
18 significant changes in the quality of the training, the student  
19 from the closed school is not entitled to a refund under Subsection  
20 (c).

21 Sec. 1603.3608. BARBERING AND COSMETOLOGY SCHOOL TUITION  
22 PROTECTION ACCOUNT. (a) If on January 1 of any year the amount in  
23 the barbering and cosmetology school tuition protection account is  
24 less than \$225,000, the department shall collect a fee from each  
25 private postsecondary school during that year by applying a  
26 percentage to the school's renewal fee at a rate that will bring the  
27 balance of the account to \$225,000.

1       **(b) The department shall administer claims made against the**  
2 **account.**

3       **(c) The comptroller shall invest the account in the same**  
4 **manner as other state funds.**

5       **(d) Sufficient money from the account shall be appropriated**  
6 **to the department for the purpose described by Section 1603.3607.**

7       **(e) Attorney's fees, court costs, or damages may not be paid**  
8 **from the account.**

9       **Sec. 1603.3609. RULES. The commission by rule may:**

10           **(1) adjust any tuition reimbursement limit**  
11 **established under this subchapter; and**

12           **(2) adopt procedures regarding the collection of fees**  
13 **from private postsecondary schools under Section 1603.3608.**

14       **SECTION 3.30. Section 1603.401, Occupations Code, is**  
15 **amended to read as follows:**

16       **Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. The**  
17 **department may [~~shall~~] deny an application for issuance or renewal**  
18 **of, or may [~~shall~~] suspend or revoke, a [~~certificate~~,] license[~~,~~]**  
19 **or permit if the applicant or person holding the [~~certificate~~,]**  
20 **license[~~,~~] or permit:**

21           **(1) engages in gross malpractice;**

22           **(2) knowingly continues to practice while having an**  
23 **infectious or contagious disease;**

24           **(3) knowingly makes a false or deceptive statement in**  
25 **advertising;**

26           **(4) advertises, practices, or attempts to practice**  
27 **under another person's name or trade name;**

1 (5) engages in fraud or deceit in obtaining a  
2 [~~certificate~~] license[~~7~~] or permit; or

3 (6) engages in an act that violates this chapter or [~~7~~]  
4 Chapter 51[~~7, Chapter 1601, or Chapter 1602~~] or a rule or order  
5 adopted or issued under this chapter or Chapter 51 [~~these~~  
6 ~~chapters~~].

7 SECTION 3.31. The heading to Subchapter J, Chapter 1603,  
8 Occupations Code, is amended to read as follows:

9 SUBCHAPTER J. OTHER [~~PENALTIES AND~~] ENFORCEMENT PROVISIONS

10 SECTION 3.32. Sections 1603.453 and 1603.454, Occupations  
11 Code, are amended to read as follows:

12 Sec. 1603.453. APPEAL BOND NOT REQUIRED. The department is  
13 not required to give an appeal bond in a cause arising under this  
14 chapter[~~7, Chapter 1601, or Chapter 1602~~].

15 Sec. 1603.454. ENFORCEMENT BY ATTORNEY GENERAL. The  
16 attorney general shall represent the department in an action to  
17 enforce this chapter[~~7, Chapter 1601, or Chapter 1602~~].

18 SECTION 3.33. The following provisions of the Occupations  
19 Code are repealed:

- 20 (1) Chapters 1601 and 1602;
- 21 (2) Sections 1603.104(b), (c), and (c-1);
- 22 (3) Section 1603.205;
- 23 (4) Section 1603.206;
- 24 (5) Section 1603.207;
- 25 (6) Section 1603.254;
- 26 (7) Section 1603.451;
- 27 (8) Section 1603.452;

1           (9) Section 1603.455; and

2           (10) Section 1603.456.

3           SECTION 3.34. (a) To ensure that licensed schools offering  
4 instruction in barbering and cosmetology maintain accreditation  
5 and that students of those schools continue to qualify for federal  
6 aid, the Texas Commission of Licensing and Regulation shall, as  
7 soon as practicable after September 1, 2021, adopt any rules  
8 necessary for the orderly implementation of the changes in law made  
9 by this article to the licensing system and curricula requirements  
10 and standards for schools offering instruction in barbering and  
11 cosmetology.

12           (b) Not later than September 1, 2023:

13                 (1) the Texas Commission of Licensing and Regulation  
14 shall adopt any additional rules necessary to implement the changes  
15 in law made by this article; and

16                 (2) the Texas Department of Licensing and Regulation  
17 shall begin to issue and renew licenses and permits under  
18 Subchapters E-1, E-2, and E-3, Chapter 1603, Occupations Code, as  
19 added by this article.

20           SECTION 3.35. Notwithstanding the repeal by this article of  
21 Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and  
22 1603.207, Occupations Code, the Texas Department of Licensing and  
23 Regulation may continue to issue until September 1, 2023, a  
24 certificate, license, or permit under those provisions as they  
25 existed immediately before September 1, 2021, and those provisions  
26 are continued in effect for that purpose.

27           SECTION 3.36. Notwithstanding the repeal by this article of

1 Chapters 1601 and 1602, Occupations Code, until the Texas  
2 Commission of Licensing and Regulation adopts rules regarding  
3 written and practical examination requirements for the issuance of  
4 licenses under Chapter 1603, Occupations Code, as amended by this  
5 article, the Texas Department of Licensing and Regulation shall  
6 continue to operate under the requirements regarding written and  
7 practical examinations in former Chapters 1601 and 1602,  
8 Occupations Code, as those chapters were in effect immediately  
9 before September 1, 2021, and those provisions are continued in  
10 effect for that purpose.

11 SECTION 3.37. (a) A certificate, license, or permit issued  
12 under former Chapter 1601 or 1602, Occupations Code, or under  
13 former Section 1603.205, 1603.206, or 1603.207, Occupations Code,  
14 before September 1, 2023, continues to be valid until the  
15 certificate, license, or permit expires, and those chapters and  
16 sections are continued in effect for that purpose.

17 (b) A person who on September 1, 2021, holds a certificate,  
18 license, or permit issued under former Chapter 1601 or 1602,  
19 Occupations Code, or under former Section 1603.205, 1603.206, or  
20 1603.207, Occupations Code, is entitled on expiration of that  
21 certificate, license, or permit to issuance of a comparable license  
22 or permit under the applicable provision of Chapter 1603,  
23 Occupations Code, as amended by this article, if the person  
24 otherwise meets the requirements for the license or permit.

25 (c) A person who on September 1, 2021, holds an instructor  
26 license issued under former Chapter 1601 or 1602, Occupations Code,  
27 is entitled on expiration of that license to issuance of a license

1 under the applicable provision of Chapter 1603, Occupations Code,  
2 as amended by this article, that is comparable to the individual  
3 practitioner license required for the issuance of the instructor  
4 license if the person otherwise meets the requirements for the  
5 license under Chapter 1603.

6       SECTION 3.38. Notwithstanding any other law, on September  
7 1, 2021, a person holding a permit under former Subchapter G,  
8 Chapter 1601, Occupations Code, a facility license under former  
9 Subchapter G, Chapter 1602, Occupations Code, or a license or  
10 permit under former Section 1603.205, 1603.206, or 1603.207,  
11 Occupations Code, before September 1, 2021, may employ or contract  
12 with any qualified individual practitioner holding a certificate,  
13 license, or permit issued under Chapter 1601 or 1602, Occupations  
14 Code, before September 1, 2021, without regard to the chapter under  
15 which the practitioner was issued the certificate, license, or  
16 permit.

17       SECTION 3.39. Notwithstanding any other law, on September  
18 1, 2021, the holder of a license issued under former Section  
19 1601.256, 1601.262, or 1601.263, Occupations Code, before that date  
20 may perform the services described by Sections 1603.0011(a)(6) and  
21 (c), Occupations Code, as added by this Act.

22       SECTION 3.40. (a) Not later than December 1, 2021, the  
23 presiding officer of the Texas Commission of Licensing and  
24 Regulation shall appoint members to the Barbering and Cosmetology  
25 Advisory Board in accordance with Section 1603.051, Occupations  
26 Code, as amended by this article.

27       (b) On December 1, 2021, the Advisory Board on Barbering and

1 the Advisory Board on Cosmetology are abolished.

2 (c) Notwithstanding Section 1603.053, Occupations Code, as  
3 added by this article, in making the initial appointments to the  
4 Barbering and Cosmetology Advisory Board, the presiding officer of  
5 the Texas Commission of Licensing and Regulation shall designate  
6 three members of the advisory board to serve terms expiring January  
7 31, 2023, three members to serve terms expiring January 31, 2025,  
8 and three members to serve terms expiring January 31, 2027.

9 SECTION 3.41. As soon as practicable after September 1,  
10 2021, the comptroller of public accounts shall transfer to the  
11 barbering and cosmetology school tuition protection account the  
12 unexpended and unencumbered balance of the barber school tuition  
13 protection account and the unexpended and unencumbered balance of  
14 the private beauty culture school tuition protection account.

15 SECTION 3.42. (a) The changes in law made by this article  
16 do not affect the validity of a disciplinary action or other  
17 proceeding that was initiated before September 1, 2021, and that is  
18 pending on September 1, 2021. A disciplinary action that is pending  
19 on September 1, 2021, is governed by the law in effect immediately  
20 before September 1, 2021, and the former law is continued in effect  
21 for that purpose.

22 (b) The repeal of a law by this article does not entitle a  
23 person to a refund of a certificate, license, or permit fee paid by  
24 the person before September 1, 2021.

#### 25 ARTICLE 4. DRIVER TRAINING

26 SECTION 4.01. Section 1001.001, Education Code, is amended  
27 by amending Subdivisions (2), (8), (9), (13), and (14) and adding

1 Subdivisions (6-a), (6-b), (14-b), and (14-c) to read as follows:

2           (2) "Classroom instruction" includes instruction  
3 provided in a traditional classroom setting or through other  
4 physical means or remotely through the Internet [~~"Approved driving~~  
5 ~~safety course" means a driving safety course approved by the~~  
6 ~~department~~].

7           (6-a) "Driver education instructor" means an  
8 individual who holds a license to teach or provide driver education  
9 issued under Section 1001.251.

10           (6-b) "Driver education provider" means an in-person  
11 driver education provider, an online driver education provider, or  
12 a parent-taught driver education provider.

13           (8) "Driver training" means:

14                   (A) driver education provided by a driver  
15 education provider [~~school~~]; or

16                   (B) driving safety training provided by a driving  
17 safety provider [~~school~~].

18           (9) "Driver training provider [~~school~~]" means a driver  
19 education provider [~~school~~] or driving safety provider [~~school~~].

20           (13) "Driving safety provider" means a business that  
21 provides a driving safety course [~~school" means an enterprise that~~].

22                   [~~(A) maintains a place of business or solicits~~  
23 ~~business in this state; and~~

24                   [~~(B) is operated by an individual, association,~~  
25 ~~partnership, or corporation for educating and training persons in~~  
26 ~~driving safety~~].

27           (14) "In-person driver education provider

1 ~~[Instructor]~~" means a business that provides driver education  
2 courses in person, including behind-the-wheel instruction,  
3 observation instruction, or driver's license examinations ~~[an~~  
4 ~~individual who holds a license for the type of instruction being~~  
5 ~~given]~~.

6 (14-b) "Online driver education provider" means a  
7 business that provides driver education courses to students  
8 remotely through the Internet.

9 (14-c) "Parent-taught driver education provider"  
10 means a business that provides driver education course materials  
11 through physical means or remotely through the Internet to persons  
12 who conduct parent-taught driver education under Section 1001.112.

13 SECTION 4.02. Section 1001.003, Education Code, is amended  
14 to read as follows:

15 Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL  
16 BUSINESSES. It is the intent of the legislature that commission  
17 rules that affect driver training providers ~~[schools]~~ that qualify  
18 as small businesses be adopted and administered so as to have the  
19 least possible adverse economic effect on the providers ~~[schools]~~.

20 SECTION 4.03. Section 1001.004(b), Education Code, is  
21 amended to read as follows:

22 (b) The department may charge a fee to each driver education  
23 provider ~~[school]~~ in an amount not to exceed the actual expense  
24 incurred in the regulation of driver education courses established  
25 under Section 1001.1015.

26 SECTION 4.04. Section 1001.051, Education Code, is amended  
27 to read as follows:

1           Sec. 1001.051. JURISDICTION OVER PROVIDERS [~~SCHOOLS~~]. The  
2 department has jurisdiction over and control of driver training  
3 providers [~~schools~~] regulated under this chapter.

4           SECTION 4.05. Sections 1001.053(a) and (b), Education Code,  
5 are amended to read as follows:

6           (a) The department and executive director, as appropriate,  
7 shall:

8                   (1) administer this chapter;

9                   (2) enforce minimum standards for driver training  
10 providers [~~schools~~] under this chapter;

11                  (3) enforce rules adopted by the commission that are  
12 necessary to administer this chapter; and

13                  (4) inspect a driver training provider [~~school or~~  
14 ~~course provider~~] and reinspect the [~~school or course~~] provider for  
15 compliance with this chapter.

16           (b) The executive director may designate a person  
17 knowledgeable in the administration of regulating driver training  
18 providers [~~schools~~] to administer this chapter.

19           SECTION 4.06. Section 1001.054, Education Code, is amended  
20 to read as follows:

21           Sec. 1001.054. RULES RESTRICTING ADVERTISING. [~~(c)~~] The  
22 commission by rule may restrict advertising by a branch location of  
23 an in-person [~~a~~] driver education provider [~~training school~~] so  
24 that the location adequately identifies the main business [~~primary~~]  
25 location of the provider [~~school~~] in a solicitation.

26           SECTION 4.07. Sections 1001.055(a), (a-1), and (a-2),  
27 Education Code, are amended to read as follows:

1           (a) The department shall provide to each licensed driver  
2 education provider or exempt driver education school [~~and to each~~  
3 ~~parent-taught course provider approved under this chapter~~] driver  
4 education certificates or certificate numbers to enable the [~~school~~  
5 ~~or approved parent-taught course~~] provider or school to issue  
6 department-approved driver education certificates to certify  
7 completion of an approved driver education course and satisfy the  
8 requirements of Sections 521.204(a)(2), Transportation Code,  
9 521.1601, Transportation Code, as added by Chapter 1253 (H.B. 339),  
10 Acts of the 81st Legislature, Regular Session, 2009, and 521.1601,  
11 Transportation Code, as added by Chapter 1413 (S.B. 1317), Acts of  
12 the 81st Legislature, Regular Session, 2009.

13           (a-1) A certificate issued by a driver education [~~school or~~  
14 ~~parent-taught course~~] provider licensed [~~approved~~] under this  
15 chapter must:

16                   (1) be in a form required by the department; and

17                   (2) include an identifying certificate number  
18 provided by the department that may be used to verify the  
19 authenticity of the certificate with the [~~driver education school~~  
20 ~~or approved parent-taught course~~] provider.

21           (a-2) A driver education [~~school or parent-taught course~~]  
22 provider licensed [~~approved~~] under this chapter that purchases  
23 driver education certificate numbers shall issue original and  
24 duplicate certificates in a manner that, to the greatest extent  
25 possible, prevents the unauthorized production or the misuse of the  
26 certificates. The [~~driver education school or approved~~  
27 ~~parent-taught course~~] provider shall electronically submit to the

1 department in the manner established by the department data  
2 identified by the department relating to issuance of  
3 department-approved driver education certificates with the  
4 certificate numbers.

5 SECTION 4.08. Sections 1001.056(b), (c-1), (d), (e), and  
6 (g), Education Code, are amended to read as follows:

7 (b) The department shall provide each licensed driving  
8 safety [~~course~~] provider with course completion certificate  
9 numbers to enable the provider to issue department-approved uniform  
10 certificates of course completion.

11 (c-1) A driving safety [~~course~~] provider shall provide for  
12 the issuance of original and duplicate certificates in a manner  
13 that, to the greatest extent possible, prevents the unauthorized  
14 production or the misuse of the certificates.

15 (d) A certificate under this section must:

16 (1) be in a form required by the department; and

17 (2) include an identifying number by which the  
18 department, a court, or the Department of Public Safety may verify  
19 its authenticity with the driving safety [~~course~~] provider.

20 (e) The commission by rule shall establish a fee for each  
21 course completion certificate number. [~~A course provider that~~  
22 ~~supplies a certificate to an operator shall collect from the~~  
23 ~~operator a fee equal to the amount of the fee paid to the department~~  
24 ~~for the certificate number.~~]

25 (g) A driving safety [~~course~~] provider shall issue a  
26 duplicate certificate by United States mail or commercial or  
27 electronic delivery. The commission by rule shall determine the

1 amount of the fee for issuance of a duplicate certificate under this  
2 subsection.

3 SECTION 4.09. Section 1001.058(b), Education Code, is  
4 amended to read as follows:

5 (b) The advisory committee consists of nine ~~[eleven]~~  
6 members appointed for staggered six-year terms by the presiding  
7 officer of the commission, with the approval of the commission, as  
8 follows:

9 (1) three driver education providers ~~[one member~~  
10 ~~representing a driver education school that offers a traditional~~  
11 ~~classroom course and in-car training]~~;

12 (2) three driving safety providers ~~[one member~~  
13 ~~representing a driver education school that offers a traditional~~  
14 ~~classroom course, alternative methods of instruction, or in-car~~  
15 ~~training]~~;

16 (3) ~~[one member representing a driving safety school~~  
17 ~~offering a traditional classroom course or providing an alternative~~  
18 ~~method of instruction,~~

19 ~~[(4) one member representing a driving safety course~~  
20 ~~provider approved for a traditional classroom course and for an~~  
21 ~~alternative method of instruction,~~

22 ~~[(5) one member representing a driving safety course~~  
23 ~~provider approved for a traditional classroom course or for an~~  
24 ~~alternative method of instruction,~~

25 ~~[(6)]~~ one driver education ~~[licensed]~~ instructor;

26 (4) the division head ~~[(7) one representative]~~ of the  
27 Department of Public Safety driver license division or the division

1 head's designee;

2 ~~[(8) one member representing a drug and alcohol~~  
3 ~~driving awareness program course provider,~~

4 ~~[(9) one member representing a parent-taught course~~  
5 ~~provider,~~] and

6 (5) one member of ~~[(10) two members representing]~~ the  
7 public.

8 SECTION 4.10. Section 1001.059(b), Education Code, is  
9 amended to read as follows:

10 (b) The department may collaborate with another state  
11 agency or contract with a licensed driver education provider  
12 ~~[school]~~ or a driver education instructor to create the course.

13 SECTION 4.11. Subchapter B, Chapter 1001, Education Code,  
14 is amended by adding Section 1001.060 to read as follows:

15 Sec. 1001.060. COORDINATION WITH DEPARTMENT OF PUBLIC  
16 SAFETY. (a) The department shall enter into a memorandum of  
17 understanding with the Department of Public Safety for:

18 (1) the interagency development of the content of  
19 driver's license examinations and examination reference materials;  
20 and

21 (2) any other matter the agencies consider  
22 appropriate.

23 (b) The memorandum of understanding must authorize the  
24 Department of Public Safety to share with the department any  
25 relevant information, including information related to examination  
26 results.

27 SECTION 4.12. The heading to Subchapter C, Chapter 1001,

1 Education Code, is amended to read as follows:

2 SUBCHAPTER C. ~~[OPERATION OF]~~ DRIVER EDUCATION AND DRIVING SAFETY  
3 CURRICULUM ~~[SCHOOL]~~

4 SECTION 4.13. Section 1001.101, Education Code, is amended  
5 to read as follows:

6 Sec. 1001.101. ADULT AND MINOR DRIVER EDUCATION COURSE  
7 CURRICULUM AND TEXTBOOKS. (a) The commission by rule shall  
8 establish or approve the curriculum and designate the educational  
9 materials to be used in a driver education course for minors and  
10 adults, including a driver education course conducted by a school  
11 district, driver education provider ~~[school]~~, or parent or other  
12 individual under this chapter.

13 (b) The commission by rule shall prescribe the minimum  
14 number of hours of classroom instruction, observation instruction,  
15 and behind-the-wheel instruction that must be completed for a [A]  
16 driver education course to be approved under this chapter ~~[must~~  
17 ~~require the student to complete.~~

18 ~~[(1) 7 hours of behind-the-wheel instruction in the~~  
19 ~~presence of a person who holds a driver education instructor~~  
20 ~~license or who meets the requirements for a driver education course~~  
21 ~~conducted by a parent or other individual under Section 1001.112,~~

22 ~~[(2) 7 hours of observation instruction in the~~  
23 ~~presence of a person who holds a driver education instructor~~  
24 ~~license or who meets the requirements for a driver education course~~  
25 ~~conducted by a parent or other individual under Section 1001.112,~~  
26 ~~and~~

27 ~~[(3) 30 hours of behind-the-wheel instruction,~~

1 ~~including at least 10 hours of instruction that takes place at~~  
2 ~~night, in the presence of an adult who meets the requirements of~~  
3 ~~Section 521.222(d)(2), Transportation Code]~~.

4 SECTION 4.14. Sections 1001.1015(b) and (d), Education  
5 Code, are amended to read as follows:

6 (b) A driver education course under Subsection (a) must:

7 (1) provide at least the minimum number of hours of  
8 classroom instruction required by commission rule ~~[be a six-hour~~  
9 ~~course]~~; and

10 (2) include instruction in:

11 (A) alcohol and drug awareness;

12 (B) the traffic laws of this state;

13 (C) highway signs, signals, and markings that  
14 regulate, warn, or direct traffic; and

15 (D) the issues commonly associated with motor  
16 vehicle accidents, including poor decision-making, risk taking,  
17 impaired driving, distraction, speed, failure to use a safety belt,  
18 driving at night, failure to yield the right-of-way, and using a  
19 wireless communication device while operating a vehicle.

20 (d) A driving safety course ~~[or a drug and alcohol driving~~  
21 ~~awareness program]~~ may not be approved as a driver education course  
22 under Subsection (a).

23 SECTION 4.15. Sections 1001.1016(b) and (c), Education  
24 Code, are amended to read as follows:

25 (b) The commission by rule shall require an in-person ~~[a]~~  
26 driver education provider or online driver education provider  
27 ~~[school providing a driver education course]~~ to:

1 (1) in the manner described by the Americans with  
2 Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), make  
3 reasonable modifications and provide aids and services when  
4 providing the classroom instruction portion of a driver education  
5 ~~[the]~~ course that are necessary to ensure that a student who is deaf  
6 or hard of hearing may fully participate in the course; and

7 (2) provide to the department the provider's  
8 ~~[school's]~~ plan for complying with the rules adopted under this  
9 section as a condition of obtaining a license under Section  
10 1001.211 or renewing a license ~~[under Section 1001.303]~~.

11 (c) The rules adopted under Subsection (b) must allow an  
12 in-person ~~[a]~~ driver education provider or online driver education  
13 provider ~~[school]~~ to comply with the requirements of this section  
14 by playing a video that presents the classroom instruction portion  
15 of the driver education course in a manner that complies with the  
16 requirements of this section.

17 SECTION 4.16. Subchapter C, Chapter 1001, Education Code,  
18 is amended by adding Section 1001.1017 to read as follows:

19 Sec. 1001.1017. COURSE APPROVAL. A driver training  
20 provider shall submit to the commission for approval the course  
21 length and curriculum content for each course offered by the  
22 provider. The provider may implement a course length and  
23 curriculum content only after approval by the commission.

24 SECTION 4.17. Section 1001.112, Education Code, is amended  
25 to read as follows:

26 Sec. 1001.112. PARENT-TAUGHT DRIVER EDUCATION. (a) A  
27 person who is eligible under Subsection (b) may conduct ~~[The~~

1 ~~commission by rule shall provide for approval of]~~ a driver  
2 education course approved under Section 1001.1017 for another  
3 ~~[conducted by the following persons with the noted relationship to~~  
4 ~~a]~~ person who is required to complete a driver education course to  
5 obtain a Class C license. In conducting the course, the person must  
6 use course materials provided by a parent-taught driver education  
7 provider.

8 (b) A person is eligible to conduct a driver education  
9 course for another person as provided by Subsection (a) if the  
10 person:

11 (1) is either:

12 (A) a parent, stepparent, foster parent, legal  
13 guardian, grandparent, or step-grandparent of the other person; or

14 (B) ~~[(2)]~~ an individual who:

15 (i) ~~[(A)]~~ has been designated on a form  
16 prescribed by the department for purposes of this section by a  
17 parent or ~~[(a)]~~ legal guardian of the other person ~~[(r)]~~ or by a judge  
18 of a court with jurisdiction over the other person ~~[on a form~~  
19 ~~prescribed by the department]~~;

20 (ii) ~~[(B)]~~ is at least 25 years of age ~~[or~~  
21 ~~older]~~;

22 (iii) ~~[(C)]~~ does not charge a fee for  
23 conducting the course; and

24 (iv) ~~[(D)]~~ has at least seven years of  
25 driving experience;

26 (2) has possessed ~~[and~~

27 ~~[(E)] otherwise qualifies to conduct a course~~

1 ~~under Subsection (a-1).~~

2       ~~[(a-1) The rules must provide that the student driver spend~~  
3 ~~a minimum number of hours in classroom and behind-the-wheel~~  
4 ~~instruction.~~

5       ~~[(a-2) The rules must provide that the person conducting the~~  
6 ~~course.~~

7               ~~[(1) possess]~~ a valid license for the preceding three  
8 years that has not been suspended, revoked, or forfeited in the past  
9 three years for an offense that involves the operation of a motor  
10 vehicle;

11               (3) ~~[(2)]~~ has not been convicted of:

12                       (A) criminally negligent homicide; or

13                       (B) driving while intoxicated in the past seven  
14 years; and

15               (4) ~~[(3)]~~ has not been convicted during the preceding  
16 three years of:

17                       (A) three or more moving violations described by  
18 Section 542.304, Transportation Code, including violations that  
19 resulted in an accident; or

20                       (B) two or more moving violations described by  
21 Section 542.304, Transportation Code, that resulted in an accident.

22       (c) A person conducting a driver education course under this  
23 section may provide the classroom instruction portion, the  
24 behind-the-wheel instruction portion, or both portions.

25       (d) ~~[(b)]~~ The department may ~~[approve a course described by~~  
26 ~~Subsection (a) if the department determines that the course~~  
27 ~~materials are at least equal to those required in a course approved~~

1 ~~by the department, and the department may]~~ not require for a course  
2 conducted under this section that:

3 (1) the classroom instruction be provided in a room  
4 with particular characteristics or equipment; or

5 (2) the vehicle used for the behind-the-wheel  
6 instruction have equipment other than the equipment otherwise  
7 required by law for operation of the vehicle on a highway while the  
8 vehicle is not being used for driver training.

9 (e) A parent-taught driver education provider ~~[(e) The~~  
10 ~~rules must provide a method by which,~~

11 ~~[(1) approval of a course is obtained,~~

12 ~~[(2) an applicant submits proof of completion of the~~  
13 ~~course,~~

14 ~~[(3) approval for delivering course materials by an~~  
15 ~~alternative method, including electronic means, is obtained,~~

16 ~~[(4) a provider of a course approved under this~~  
17 ~~section]~~ may administer to an applicant the highway sign and  
18 traffic law parts of the examination as provided by Section  
19 521.1655(a-1), Transportation Code, through electronic means~~[, and~~

20 ~~[(5) an applicant submits proof of passage of an~~  
21 ~~examination administered under Subdivision (4)].~~

22 (f) ~~[(d) Completion of a driver education course approved~~  
23 ~~under this section has the same effect under this chapter as~~  
24 ~~completion of a driver education course approved by the department.~~

25 ~~[(e)]~~ The department may not charge a fee for the submission  
26 of proof of:

27 (1) completion of a [the] course conducted under this

1 section; or

2           (2) passage of an examination administered under  
3 Subsection (e) [~~(e)~~].

4           SECTION 4.18. Sections 1001.151(b) and (c), Education Code,  
5 are amended to read as follows:

6           (b) The commission by rule shall establish a fee for:

7               (1) an initial in-person driver education provider  
8 [~~school~~] license and for each branch location;

9               (2) an initial online driver education provider  
10 [~~driving safety school~~] license;

11              (3) an initial parent-taught driver education  
12 [~~course~~] provider license[, ~~except that the executive director may~~  
13 ~~waive the fee~~];

14              (4) an initial driving safety provider license;

15              (5) the annual renewal for a [~~course provider,~~]  
16 driving safety provider [~~school~~], driver education provider  
17 [~~school~~], or branch location of an in-person driver education  
18 provider, except that the executive director may waive the fee if  
19 revenue generated by the issuance of course completion certificate  
20 numbers and driver education certificates is sufficient to cover  
21 the cost of administering this chapter and Article 45.0511, Code of  
22 Criminal Procedure;

23              (6) [~~(5)~~] a change of address of a driver education  
24 provider [~~school, driving safety school,~~] or driving safety  
25 [~~course~~] provider; and

26              (7) [~~(6)~~] a change of name of:

27                   (A) a driver education [~~school or course~~]

1 provider or an owner of a driver education [~~school or course~~]  
2 provider; or

3 (B) a driving safety provider [~~school~~] or an  
4 owner of a driving safety provider [~~school~~;

5 [~~(7) each additional driver education or driving~~  
6 ~~safety course at a driver training school; and~~

7 [~~(8) an initial application for approval of a driving~~  
8 ~~safety course that has not been evaluated by the department]~~.

9 (c) An application for an initial driver education [~~or~~  
10 ~~driving safety~~] instructor license must be accompanied by a  
11 processing fee and an annual license fee, except that the  
12 department may not collect the processing fee from an applicant  
13 [~~for a driver education instructor license~~] who is currently  
14 teaching a driver education course in a public school in this state.

15 SECTION 4.19. The heading to Subchapter E, Chapter 1001,  
16 Education Code, is amended to read as follows:

17 SUBCHAPTER E. LICENSING OF DRIVER TRAINING [~~SCHOOLS AND COURSE~~]

18 PROVIDERS

19 SECTION 4.20. Section 1001.201, Education Code, is amended  
20 to read as follows:

21 Sec. 1001.201. LICENSE REQUIRED. (a) A person may not  
22 provide:

23 (1) [~~operate a school that provides~~] a driver  
24 education course;

25 (A) in person unless the person holds an  
26 in-person [~~a~~] driver education provider [~~school~~] license; or

27 (B) online unless the person holds an online

1 driver education provider license;

2 (2) driver education course materials to persons  
3 conducting parent-taught driver education under Section 1001.112  
4 unless the person holds a parent-taught driver education provider  
5 license; or

6 (3) ~~[operate a school that provides]~~ driving safety  
7 courses unless the person holds a driving safety provider ~~[school]~~  
8 license~~[, or~~

9 ~~[(3) operate as a course provider unless the person~~  
10 ~~holds a course provider license].~~

11 (b) The commission by rule shall provide for the issuance  
12 of:

13 (1) an in-person driver education provider license to  
14 a person who holds an online driver education provider license, a  
15 parent-taught driver education provider license, or both of those  
16 licenses;

17 (2) an online driver education provider license to a  
18 person who holds an in-person driver education provider license, a  
19 parent-taught driver education provider license, or both of those  
20 licenses; and

21 (3) a parent-taught driver education provider license  
22 to a person who holds an in-person driver education provider  
23 license, an online driver education provider license, or both of  
24 those licenses.

25 SECTION 4.21. Section 1001.202, Education Code, is amended  
26 to read as follows:

27 Sec. 1001.202. LOCATIONS FOR IN-PERSON DRIVER EDUCATION

1 PROVIDERS. An in-person ~~[(a) A]~~ driver education provider ~~[school]~~  
2 that teaches a driver education course at one or more branch  
3 locations must obtain a separate in-person driver education  
4 provider ~~[school]~~ license for its main business location and for  
5 each branch location. An in-person [A] driver education provider  
6 ~~[school]~~ may not operate a branch location of a branch location.

7 ~~[(b) A driving safety school may use multiple classroom~~  
8 ~~locations to teach a driving safety course if each location is~~  
9 ~~approved by the department.]~~

10 SECTION 4.22. Section 1001.204, Education Code, is amended  
11 to read as follows:

12 Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION PROVIDER  
13 ~~[SCHOOL]~~ LICENSE. (a) The commission by rule shall establish the  
14 criteria applicable to each ~~[for a]~~ driver education provider  
15 ~~[school]~~ license.

16 (b) The department shall approve an application for a driver  
17 education provider ~~[school]~~ license if the application is submitted  
18 on a form approved by the department, the application is  
19 accompanied by the fee, and the department determines that the  
20 applicant ~~[school]~~:

21 (1) has courses, curricula, and instruction of a  
22 quality, content, and length that reasonably and adequately achieve  
23 the stated objective for which the courses, curricula, and  
24 instruction are offered;

25 (2) ~~[has adequate space, equipment, instructional~~  
26 ~~material, and instructors to provide training of good quality in~~  
27 ~~the classroom and behind the wheel, if applicable,~~

1           ~~[(3) has instructors who have adequate educational~~  
2 ~~qualifications and experience,~~

3           [(4)] provides to each student before enrollment or  
4 each person before contracting for driver education course  
5 materials, to the extent applicable:

6                   (A) a copy of:

7                           (i) the refund policy;

8                           (ii) the schedule of tuition, fees, and  
9 other charges; and

10                          (iii) the regulations relating to absence,  
11 grading policy, and rules of operation and conduct; and

12                   (B) the department's name, mailing address,  
13 telephone number, and Internet website address for the purpose of  
14 directing complaints to the department;

15           (3) to the extent applicable, [(5)] maintains adequate  
16 records as prescribed by the department to show attendance and  
17 progress or grades and enforces satisfactory standards relating to  
18 attendance, progress, and conduct;

19           (4) [(6)] on completion of training, issues each  
20 student a certificate indicating the course name and satisfactory  
21 completion;

22           (5) [(7)] complies with all county, municipal, state,  
23 and federal laws [regulations], including [fire, building, and  
24 sanitation codes and] assumed name registration and other [if]  
25 applicable requirements;

26           (6) [(8)] is financially sound and capable of  
27 fulfilling its commitments for training;

1           (7) ~~[(9)]~~ maintains and publishes as part of its  
2 student enrollment contract or materials contract, as applicable,  
3 the proper policy for the refund of the unused portion of tuition,  
4 fees, and other charges if a student fails to take the course or  
5 withdraws or is discontinued from the provider ~~[school]~~ at any time  
6 before completion;

7           (8) ~~[(10)]~~ does not use erroneous or misleading  
8 advertising, either by actual statement, omission, or intimation,  
9 as determined by the department;

10           (9) ~~[(11)]~~ does not use a name similar to the name of  
11 another existing driver education provider ~~[school]~~ or  
12 tax-supported educational institution in this state, unless  
13 specifically approved in writing by the executive director;

14           (10) ~~[(12)]~~ submits to the department for approval the  
15 applicable course hour lengths and curriculum content for each  
16 course offered by the provider ~~[school]~~;

17           (11) ~~[(13)]~~ does not owe an administrative penalty for  
18 a violation of this chapter;

19           (12) meets all requirements applicable to the license  
20 type under Section 1001.2041, 1001.2042, or 1001.2043; and

21           (13) ~~[(14)]~~ meets any additional criteria required by  
22 the department, including any applicable inspection requirements[+  
23 and

24           ~~[(15) provides adequate testing and security measures~~  
25 ~~for the school's method of instruction].~~

26           SECTION 4.23. Subchapter E, Chapter 1001, Education Code,  
27 is amended by adding Sections 1001.2041, 1001.2042, and 1001.2043

1 to read as follows:

2       Sec. 1001.2041. REQUIREMENTS FOR IN-PERSON DRIVER  
3 EDUCATION PROVIDER. Before an in-person driver education provider  
4 license may be issued, the department must determine that the  
5 applicant has adequate space, equipment, instructional material,  
6 and driver education instructors to provide training of good  
7 quality in the classroom and behind the wheel.

8       Sec. 1001.2042. REQUIREMENTS FOR ONLINE DRIVER EDUCATION  
9 PROVIDER. Before an online driver education provider license may  
10 be issued, the department must determine that the applicant has:

11               (1) adequate driver education instructors to provide  
12 training of good quality; and

13               (2) adequate testing and security measures to validate  
14 a student's identity and active participation in a driver education  
15 course.

16       Sec. 1001.2043. REQUIREMENTS FOR PARENT-TAUGHT DRIVER  
17 EDUCATION PROVIDER. (a) Before a parent-taught driver education  
18 provider license may be issued, the department must determine that  
19 the applicant has:

20               (1) an adequate method by which a person completing a  
21 parent-taught driver education course under Section 1001.112 using  
22 the provider's course materials may submit proof of:

23                       (A) completion of the course; or

24                       (B) passage of an examination administered by the  
25 provider under Section 1001.112(e);

26               (2) hired or contracted with only driver education  
27 instructors, if the provider elects to hire or contract with an

1 instructor to assist with driver education; and

2 (3) adequate testing and security measures to validate  
3 a student's active participation in a driver education course  
4 conducted using course materials provided remotely through the  
5 Internet.

6 (b) Except as specifically provided by this chapter, a  
7 parent-taught driver education provider that provides driver  
8 education course materials remotely through the Internet is not  
9 subject to any course or curriculum requirements established by the  
10 commission or department for online driver education providers.

11 SECTION 4.24. Section 1001.206, Education Code, is amended  
12 to read as follows:

13 Sec. 1001.206. REQUIREMENTS FOR DRIVING SAFETY ~~[COURSE]~~  
14 PROVIDER LICENSE. (a) The commission by rule shall establish  
15 criteria for a driving safety ~~[course]~~ provider license.

16 (b) The department shall approve an application for a  
17 driving safety ~~[course]~~ provider license if the application is  
18 submitted on a form approved by the executive director, includes  
19 the fee, and ~~[on inspection of the premises of the school]~~ the  
20 department determines that the applicant:

21 (1) has driving safety courses, curricula, and  
22 instruction of a quality, content, and length that reasonably and  
23 adequately achieve the stated objective for which the courses,  
24 curricula, and instruction are offered ~~[the course provider has an~~  
25 ~~approved course that at least one licensed driving safety school is~~  
26 ~~willing to offer]~~;

27 (2) provides ~~[the course provider has adequate~~

1 ~~educational qualifications and experience,~~  
2 ~~[(3) the course provider will]~~  
3 ~~[(A) develop and provide]~~ to each student before  
4 enrollment:  
5 (A) ~~[driving safety school that offers the~~  
6 ~~approved course]~~ a copy of:  
7 (i) the refund policy; ~~[and]~~  
8 (ii) the schedule of tuition, fees, and  
9 other charges; and  
10 (iii) the regulations relating to absence,  
11 grading policy, and rules of operation and conduct; and  
12 (B) ~~[provide to the driving safety school]~~ the  
13 department's name, mailing address, telephone number, and Internet  
14 website address for the purpose of directing complaints to the  
15 department;  
16 (3) ~~[(4) a copy of the information provided to each~~  
17 ~~driving safety school under Subdivision (3) will be provided to~~  
18 ~~each student by the school before enrollment,~~  
19 ~~[(4)]~~ not later than the 15th working day after the date  
20 a person successfully completes the course, issues ~~[the course~~  
21 ~~provider will issue]~~ and delivers ~~[deliver]~~ to the person by United  
22 States mail or commercial or electronic delivery a uniform  
23 certificate of course completion indicating the course name and  
24 successful completion;  
25 (4) ~~[(6) the course provider]~~ maintains adequate  
26 records as prescribed by the department to show attendance and  
27 progress or grades and enforces satisfactory standards relating to

1 attendance, progress, and conduct;

2           (5) [~~(7) the course provider~~] complies with all  
3 county, municipal, state, and federal laws, including assumed name  
4 registration and other applicable requirements;

5           (6) [~~(8) the course provider~~] is financially sound and  
6 capable of fulfilling its commitments for training;

7           (7) [~~(9) the course provider~~] maintains and publishes  
8 as a part of its student enrollment contract the proper policy for  
9 the refund of the unused portion of tuition, fees, and other charges  
10 if a student fails to take the course or withdraws or is  
11 discontinued from the provider [~~school~~] at any time before  
12 completion;

13           (8) [~~(10) the course provider~~] does not use erroneous  
14 or misleading advertising, either by actual statement, omission, or  
15 intimation, as determined by the department;

16           (9) [~~(11) the course provider~~] does not use a name  
17 similar to the name of another existing driving safety provider  
18 [~~school~~] or tax-supported educational institution in this state,  
19 unless specifically approved in writing by the executive director;

20           (10) submits to the department for approval the  
21 applicable course hour lengths and curriculum content for each  
22 course offered by the provider;

23           (11) [~~(12) the course provider~~] does not owe an  
24 administrative penalty for a violation of this chapter;

25           (12) provides adequate testing and security measures  
26 for the provider's method of instruction to validate a student's  
27 identity and active participation in a driving safety course; and

1 (13) [~~the course provider~~] meets any additional  
2 criteria required by the department.

3 SECTION 4.25. Section 1001.207, Education Code, is amended  
4 to read as follows:

5 Sec. 1001.207. BOND REQUIREMENTS: DRIVER EDUCATION  
6 PROVIDER [~~SCHOOL~~]. (a) Before a driver education provider  
7 [~~school~~] may be issued a license, the provider [~~school~~] must file a  
8 corporate surety bond with the department in the amount of:

9 (1) \$10,000 [~~for the primary location of the school~~];  
10 and

11 (2) for an in-person driver education provider, \$5,000  
12 for each branch location of the provider.

13 (b) A bond issued under Subsection (a) must be:

14 (1) issued in a form approved by the department;

15 (2) issued by a company authorized to do business in  
16 this state;

17 (3) payable to the department to be used only for  
18 payment of a refund due to a student or potential student;

19 (4) conditioned on the compliance of the provider  
20 [~~school~~] and its officers, agents, and employees with this chapter  
21 and rules adopted under this chapter; and

22 (5) issued for a period corresponding to the term of  
23 the license.

24 (c) Posting of a bond in the amount required under  
25 Subsection (a) satisfies the requirements for financial stability  
26 for driver education providers [~~schools~~] under this chapter.

27 (d) A driver education provider who files a bond under

1 Subsection (a)(1) or provides an alternate form of security under  
2 Section 1001.210 to obtain one type of driver education provider  
3 license may not be required to file an additional bond under  
4 Subsection (a)(1) or provide an alternate form of security under  
5 Section 1001.210 for any other type of driver education provider  
6 license.

7 SECTION 4.26. Section 1001.209, Education Code, is amended  
8 to read as follows:

9 Sec. 1001.209. BOND REQUIREMENTS: DRIVING SAFETY [~~COURSE~~]  
10 PROVIDER. (a) Before a license may be issued to a driving safety  
11 [~~course~~] provider, the [~~course~~] provider must provide a corporate  
12 surety bond in the amount of \$10,000.

13 (b) A bond issued under Subsection (a) must be:

14 (1) issued by a company authorized to do business in  
15 this state;

16 (2) payable to the department to be used:

17 (A) for payment of a refund due a student of the  
18 [~~course~~] provider's approved driving safety courses [~~course~~];

19 (B) to cover the payment of unpaid fees or  
20 penalties assessed by the executive director or the commission; or

21 (C) to recover any cost associated with providing  
22 course completion certificate numbers, including the cancellation  
23 of certificate numbers;

24 (3) conditioned on the compliance of the [~~course~~]  
25 provider and its officers, agents, and employees with this chapter  
26 and rules adopted under this chapter; and

27 (4) issued for a period corresponding to the term of

1 the license.

2 SECTION 4.27. Section 1001.210, Education Code, is amended  
3 to read as follows:

4 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the  
5 bond required by Section 1001.207 or 1001.209, a driver education  
6 provider [~~school~~] or driving safety [~~course~~] provider may provide  
7 another form of security that is:

8 (1) approved by the department; and

9 (2) in the amount required for a comparable bond under  
10 Section 1001.207 or 1001.209.

11 SECTION 4.28. Sections 1001.211(b) and (c), Education Code,  
12 are amended to read as follows:

13 (b) A license must be in a form determined by the department  
14 and must show in a clear and conspicuous manner:

15 (1) the date of issuance, effective date, and term of  
16 the license;

17 (2) the name and address of the driver training  
18 [~~school or course~~] provider;

19 (3) the authority for and conditions of approval; and

20 (4) any other fair and reasonable representation that  
21 is consistent with this chapter and that the department considers  
22 necessary.

23 (c) An applicant may obtain both a driver education provider  
24 [~~school~~] license and a driving safety provider [~~school~~] license.

25 SECTION 4.29. Sections 1001.213(b), (c), and (d), Education  
26 Code, are amended to read as follows:

27 (b) If a change in ownership of a driver training [~~school or~~

1 ~~course]~~ provider is proposed, a new owner shall apply for a new  
2 ~~[school or course]~~ provider license at least 30 days before the date  
3 of the change.

4 (c) The commission by rule may establish fees for a new  
5 driver training ~~[education school or course]~~ provider license under  
6 Subsection (b) and, if applicable, for each branch location of an  
7 in-person driver education provider if:

8 (1) the new owner is substantially similar to the  
9 previous owner; and

10 (2) there is no significant change in the management  
11 or control of the ~~[driver education school or course]~~ provider.

12 (d) The department may inspect a driver training provider's  
13 main ~~[school]~~ or ~~[a]~~ branch location, as applicable, after a change  
14 of ownership.

15 SECTION 4.30. Section 1001.214, Education Code, is amended  
16 to read as follows:

17 Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may  
18 be issued to a driver training ~~[school or course]~~ provider if:

19 (1) the original license is lost or destroyed; and

20 (2) an affidavit of that fact is filed with the  
21 department.

22 SECTION 4.31. Section 1001.251(a), Education Code, is  
23 amended to read as follows:

24 (a) Except as authorized under Section 1001.112, a [A]  
25 person may not teach or provide driver education~~[, either as an~~  
26 ~~individual or in a driver education school,~~] or conduct any phase of  
27 driver education~~[,]~~ unless the person holds a driver education

1 instructor license issued by the executive director.

2 SECTION 4.32. Section 1001.2511(e), Education Code, is  
3 amended to read as follows:

4 (e) The commission may adopt rules to administer this  
5 section, including rules establishing:

6 (1) deadlines for a person to submit fingerprints and  
7 photographs in compliance with this section;

8 (2) sanctions for a person's failure to comply with the  
9 requirements of this section, including suspension or revocation of  
10 or refusal to issue a license described by Subsection (a); and

11 (3) notification to a driver education provider  
12 [~~school~~] of relevant information obtained by the department under  
13 this section.

14 SECTION 4.33. Section 1001.2512, Education Code, is amended  
15 to read as follows:

16 Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD  
17 INFORMATION REVIEW. The commission by rule shall require a person  
18 submitting to a national criminal history record information review  
19 under Section 1001.2511 or the driver education provider [~~school~~]  
20 employing the person, as determined by the department, to pay a fee  
21 for the review in an amount not to exceed the amount of any fee  
22 imposed on an application for certification under Subchapter B,  
23 Chapter 21, for a national criminal history record information  
24 review under Section 22.0837.

25 SECTION 4.34. Section 1001.2513, Education Code, is amended  
26 to read as follows:

27 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION. A social

1 security number, driver's license number, other identification  
2 number, or fingerprint record collected for a person to comply with  
3 Section 1001.2511:

4 (1) may not be released except:

5 (A) to provide relevant information to driver  
6 education providers [~~schools~~] or otherwise to comply with Section  
7 1001.2511;

8 (B) by court order; or

9 (C) with the consent of the person who is the  
10 subject of the information;

11 (2) is not subject to disclosure as provided by  
12 Chapter 552, Government Code; and

13 (3) shall be destroyed by the requestor or any  
14 subsequent holder of the information not later than the first  
15 anniversary of the date the information is received.

16 SECTION 4.35. Sections 1001.2514(a) and (d), Education  
17 Code, are amended to read as follows:

18 (a) A driver education provider [~~school~~] shall discharge or  
19 refuse to hire as an instructor an employee or applicant for  
20 employment if the department obtains information through a criminal  
21 history record information review that:

22 (1) the employee or applicant has been convicted of:

23 (A) a felony offense under Title 5, Penal Code;

24 (B) an offense on conviction of which a defendant  
25 is required to register as a sex offender under Chapter 62, Code of  
26 Criminal Procedure; or

27 (C) an offense under the laws of another state or

1 federal law that is equivalent to an offense under Paragraph (A) or  
2 (B); and

3 (2) at the time the offense occurred, the victim of the  
4 offense described by Subdivision (1) was under 18 years of age or  
5 was enrolled in a public school.

6 (d) A driver education provider ~~[school]~~ may discharge an  
7 employee who serves as an instructor if the provider ~~[school]~~  
8 obtains information of the employee's conviction of a felony or of a  
9 misdemeanor involving moral turpitude that the employee did not  
10 disclose to the provider ~~[school]~~ or the department. An employee  
11 discharged under this subsection is considered to have been  
12 discharged for misconduct for purposes of Section 207.044, Labor  
13 Code.

14 SECTION 4.36. Section 1001.2531(b), Education Code, is  
15 amended to read as follows:

16 (b) An applicant for a driver education instructor license  
17 under this section must:

18 (1) apply to the department on a form prescribed by the  
19 department and under rules adopted by the commission;

20 (2) submit with the application a nonrefundable  
21 application fee in an amount set by commission rule; and

22 (3) present satisfactory evidence to the department  
23 that the applicant:

24 (A) is at least 21 years of age; and

25 (B) ~~[holds a high school diploma or high school~~  
26 ~~equivalency certificate, and~~

27 ~~[(C)]~~ meets any other requirement established by

1 commission rule.

2 SECTION 4.37. Sections 1001.255(a), (b), and (c), Education  
3 Code, are amended to read as follows:

4 (a) The department shall regulate as a driver education  
5 provider of the type determined appropriate by the department  
6 ~~[school]~~ a driver education instructor who:

7 (1) teaches driver education courses in a county  
8 having a population of 50,000 or less; and

9 (2) does not teach more than 200 students annually.

10 (b) An instructor described by Subsection (a) must submit to  
11 the department an application for an initial or renewal driver  
12 education provider ~~[school]~~ license, together with all required  
13 documentation and information.

14 (c) The executive director may waive initial or renewal  
15 driver education provider ~~[school]~~ license fees.

16 SECTION 4.38. Section 1001.301, Education Code, is amended  
17 to read as follows:

18 Sec. 1001.301. EXPIRATION OF DRIVER TRAINING ~~[SCHOOL OR~~  
19 ~~COURSE]~~ PROVIDER LICENSE. The term of a driver training ~~[education~~  
20 ~~school, driving safety school, or course]~~ provider license may not  
21 exceed one year.

22 SECTION 4.39. Section 1001.302, Education Code, is amended  
23 to read as follows:

24 Sec. 1001.302. EXPIRATION OF DRIVER EDUCATION INSTRUCTOR  
25 LICENSE. The term of a driver education instructor ~~[or driving~~  
26 ~~safety instructor]~~ license may not exceed one year.

27 SECTION 4.40. Section 1001.351, Education Code, is amended

1 to read as follows:

2           Sec. 1001.351. DRIVING SAFETY [COURSE] PROVIDER  
3 RESPONSIBILITIES. (a) Not later than the 15th working day after  
4 the course completion date, a driving safety [course] provider or a  
5 person at the [course] provider's facilities shall issue and  
6 deliver by United States mail or commercial or electronic delivery  
7 a uniform certificate of course completion to a person who  
8 successfully completes an approved driving safety course.

9           (b) A driving safety [course] provider shall electronically  
10 submit to the department in the manner established by the  
11 department data identified by the department relating to uniform  
12 certificates of course completion issued by the [course] provider.

13           ~~[(c) A course provider shall conduct driving safety~~  
14 ~~instructor development courses for its approved driving safety~~  
15 ~~courses.]~~

16           SECTION 4.41. Section 1001.352, Education Code, is amended  
17 to read as follows:

18           Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. A driving  
19 safety [course] provider shall charge each student:

20                   (1) at least \$25 for a driving safety course; and

21                   (2) a fee of at least \$3 for course materials and for  
22 supervising and administering the course.

23           SECTION 4.42. Section 1001.353, Education Code, is amended  
24 to read as follows:

25           Sec. 1001.353. DRIVER TRAINING COURSE AT PUBLIC OR PRIVATE  
26 SCHOOL. A driver training provider [school] may conduct a driver  
27 training course at a public or private school for students of the

1 public or private school as provided by an agreement with the public  
2 or private school. The course is subject to any law applicable to a  
3 course conducted at the main business location of the driver  
4 training provider [~~school~~].

5 SECTION 4.43. Section 1001.355, Education Code, is amended  
6 to read as follows:

7 Sec. 1001.355. WITHHOLDING CERTAIN RECORDS. A driver  
8 training provider [~~school~~] may withhold a student's diploma or  
9 certificate of completion until the student fulfills the student's  
10 financial obligation to the provider [~~school~~].

11 SECTION 4.44. Section 1001.356, Education Code, is amended  
12 to read as follows:

13 Sec. 1001.356. REQUIREMENT TO CARRY LICENSE. A driver  
14 education instructor [~~or driving safety instructor~~] shall carry the  
15 person's instructor license at all times while instructing a driver  
16 education course [~~or driving safety course~~].

17 SECTION 4.45. Section 1001.357, Education Code, is amended  
18 to read as follows:

19 Sec. 1001.357. CONTRACT WITH UNLICENSED DRIVER TRAINING  
20 PROVIDER [~~SCHOOL~~]. A contract entered into with a person for a  
21 course of instruction by or on behalf of a person operating an  
22 unlicensed driver training provider [~~school~~] is unenforceable.

23 SECTION 4.46. Section 1001.401, Education Code, is amended  
24 to read as follows:

25 Sec. 1001.401. CANCELLATION AND SETTLEMENT POLICY. As a  
26 condition for obtaining a driver training [~~education school license~~  
27 ~~or course~~] provider license, the [~~school or course~~] provider must

1 maintain a cancellation and settlement policy that provides a full  
2 refund of all money paid by a student if:

3 (1) the student cancels the enrollment contract before  
4 midnight of the third day, other than a Saturday, Sunday, or legal  
5 holiday, after the date the enrollment contract is signed by the  
6 student, unless the student successfully completes the course or  
7 receives a failing grade on the course examination; or

8 (2) the enrollment of the student was procured as a  
9 result of a misrepresentation in:

10 (A) advertising or promotional materials of the  
11 ~~[school or course]~~ provider; or

12 (B) a representation made by an owner or employee  
13 of the ~~[school or course]~~ provider.

14 SECTION 4.47. Section 1001.402, Education Code, is amended  
15 to read as follows:

16 Sec. 1001.402. TERMINATION POLICY. (a) As a condition for  
17 obtaining a driver training provider ~~[education school]~~ license,  
18 the provider ~~[school]~~ must maintain a policy for the refund of the  
19 unused portion of tuition, fees, and other charges if a student,  
20 after expiration of the cancellation period described by Section  
21 1001.401, does not enter the course or withdraws or is discontinued  
22 from the course at any time before completion.

23 (b) The policy must provide that:

24 (1) refunds are based on the period of enrollment  
25 computed on the basis of course time expressed in clock hours;

26 (2) the effective date of the termination for refund  
27 purposes is the earliest of:

1 (A) the last day of attendance, if the student's  
2 enrollment is terminated by the provider [~~school~~];

3 (B) the date the provider [~~school~~] receives  
4 written notice from the student; or

5 (C) the 10th school day after the last day of  
6 attendance;

7 (3) if tuition is collected in advance of entrance and  
8 if a student does not enter the course [~~school~~], terminates  
9 enrollment, or withdraws, the provider [~~school~~]:

10 (A) may retain not more than \$50 as an  
11 administrative expense; and

12 (B) shall refund that portion of the student's  
13 remaining classroom tuition and fees and behind-the-wheel tuition  
14 and fees that corresponds to services the student does not receive;

15 (4) the provider [~~school~~] shall refund items of extra  
16 expense to the student, including instructional supplies, books,  
17 laboratory fees, service charges, rentals, deposits, and all other  
18 charges not later than the 30th day after the effective date of  
19 enrollment termination if:

20 (A) the extra expenses are separately stated and  
21 shown in the information provided to the student before enrollment;  
22 and

23 (B) the student returns to the provider [~~school~~]  
24 any provider [~~school~~] property in the student's possession; and

25 (5) refunds shall be completed not later than the 30th  
26 day after the effective date of enrollment termination.

27 SECTION 4.48. Section 1001.403, Education Code, is amended

1 to read as follows:

2       Sec. 1001.403. REFUND FOR DISCONTINUED COURSE. On the  
3 discontinuation of a course by a driver training [~~education school~~  
4 ~~or a course~~] provider that prevents a student from completing the  
5 course, all tuition and fees paid become refundable.

6       SECTION 4.49. Sections 1001.404(a) and (c), Education Code,  
7 are amended to read as follows:

8       (a) If a refund is not timely made, the driver training  
9 [~~education school or course~~] provider shall pay interest on the  
10 amount of the refund. Interest begins to accrue on the first day  
11 after the expiration of the refund period and ends on the day  
12 preceding the date the refund is made.

13       (c) The department may except a driver training [~~education~~  
14 ~~school or course~~] provider from the payment of interest if the  
15 [~~school or course~~] provider makes a good-faith effort to refund  
16 tuition, fees, and other charges but is unable to locate the student  
17 to whom the refund is owed. On request of the department, the  
18 driver training [~~school or course~~] provider shall document the  
19 effort to locate a student.

20       SECTION 4.50. Subchapter I, Chapter 1001, Education Code,  
21 is amended by adding Section 1001.405 to read as follows:

22       Sec. 1001.405. APPLICABILITY TO PARENT-TAUGHT DRIVER  
23 EDUCATION PROVIDER. The commission shall adopt rules as necessary  
24 to ensure this subchapter applies as appropriate to a parent-taught  
25 driver education provider.

26       SECTION 4.51. Section 1001.451, Education Code, is amended  
27 to read as follows:

1           Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

2                   (1) use advertising that is false, misleading, or  
3 deceptive;

4                   (2) fail to notify the department of the  
5 discontinuance of the operation of a driver training provider  
6 [~~school~~] before the 15th working day after the date of cessation of  
7 classes and make available accurate records as required by this  
8 chapter;

9                   (3) issue, sell, trade, or transfer:

10                   (A) a uniform certificate of course completion or  
11 driver education certificate to a person or driver training  
12 provider [~~school~~] not authorized to possess the certificate;

13                   (B) a uniform certificate of course completion to  
14 a person who has not successfully completed an approved[~~, six-hour~~]  
15 driving safety course; or

16                   (C) a driver education certificate to a person  
17 who has not successfully completed a department-approved driver  
18 education course;

19                   (4) negotiate a promissory instrument received as  
20 payment of tuition or another charge before the student completes  
21 75 percent of the course, except that before that time the  
22 instrument may be assigned to a purchaser who becomes subject to any  
23 defense available against the provider [~~school~~] named as payee; or

24                   (5) conduct any part of an approved driver education  
25 course [~~or driving safety course~~] without having an instructor  
26 adequately available [~~physically present in appropriate proximity~~]  
27 to the student for the type of instruction being given.

1           SECTION 4.52. Section 1001.452, Education Code, is amended  
2 to read as follows:

3           Sec. 1001.452. COURSE OF INSTRUCTION OR PROVISION OF  
4 MATERIALS. A driver training provider [~~school~~] may not conduct a  
5 course of instruction or provide driver education course materials,  
6 as applicable, in this state before the date the provider [~~school~~]  
7 receives the necessary [~~a~~] driver training provider [~~school~~]  
8 license from the department.

9           SECTION 4.53. The heading to Section 1001.453, Education  
10 Code, is amended to read as follows:

11          Sec. 1001.453. DISTRIBUTION OF WRITTEN INFORMATION ON  
12 DRIVING SAFETY [~~COURSE~~] PROVIDER.

13          SECTION 4.54. Sections 1001.453(a) and (b), Education Code,  
14 are amended to read as follows:

15          (a) A person may not distribute within 500 feet of a court  
16 with jurisdiction over an offense to which Article 45.0511, Code of  
17 Criminal Procedure, applies written information that advertises a  
18 driving safety [~~course~~] provider.

19          (b) The department may revoke the license of a driving  
20 safety [~~course~~] provider if the [~~course~~] provider or the [~~course~~]  
21 provider's agent, employee, or representative violates this  
22 section.

23          SECTION 4.55. Section 1001.455, Education Code, is amended  
24 to read as follows:

25          Sec. 1001.455. DENIAL, SUSPENSION, OR REVOCATION OF DRIVER  
26 EDUCATION INSTRUCTOR LICENSE. (a) The executive director or the  
27 commission may deny an application for a driver education [~~an~~]

1 instructor license or suspend or revoke the license of a driver  
2 education ~~an~~ instructor if the instructor:

3 (1) fails to meet a requirement for issuance of or  
4 holding a license under this chapter;

5 (2) permits or engages in misrepresentation, fraud, or  
6 deceit in applying for or obtaining a certificate, license, or  
7 permit;

8 (3) induces fraud or fraudulent practices on the part  
9 of an applicant for a driver's license or permit;

10 (4) permits or engages in any other fraudulent  
11 practice in an action between the applicant or license holder and  
12 the public;

13 (5) fails to comply with commission rules relating to  
14 driver instruction; or

15 (6) fails to comply with this chapter.

16 SECTION 4.56. Section 106.115(a), Alcoholic Beverage Code,  
17 is amended to read as follows:

18 (a) On the placement of a minor on deferred disposition for  
19 an offense under Section 49.02, Penal Code, or under Section  
20 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court  
21 shall require the defendant to attend an alcohol awareness program  
22 approved by the Texas Department of Licensing and Regulation under  
23 this section or ~~[7]~~ a drug education program approved by the  
24 Department of State Health Services in accordance with Section  
25 521.374, Transportation Code~~[7, or a drug and alcohol driving~~  
26 ~~awareness program approved by the Texas Education Agency]~~. On  
27 conviction of a minor of an offense under one or more of those

1 sections, the court, in addition to assessing a fine as provided by  
2 those sections, shall require a defendant who has not been  
3 previously convicted of an offense under one of those sections to  
4 attend an alcohol awareness program or[7] a drug education  
5 program[~~7 or a drug and alcohol driving awareness program~~]  
6 described by this subsection. If the defendant has been previously  
7 convicted once or more of an offense under one or more of those  
8 sections, the court may require the defendant to attend an alcohol  
9 awareness program or [7] a drug education program[~~7 or a drug and~~  
10 ~~alcohol driving awareness program~~] described by this subsection. If  
11 the defendant is younger than 18 years of age, the court may require  
12 the parent or guardian of the defendant to attend the program with  
13 the defendant. The Texas Department of Licensing and Regulation or  
14 Texas Commission of Licensing and Regulation, as appropriate:

15 (1) is responsible for the administration of the  
16 certification of approved alcohol awareness programs;

17 (2) may charge a nonrefundable application fee for:

18 (A) initial certification of the approval; or

19 (B) renewal of the certification;

20 (3) shall adopt rules regarding alcohol awareness  
21 programs approved under this section; and

22 (4) shall monitor, coordinate, and provide training to  
23 a person who provides an alcohol awareness program.

24 SECTION 4.57. Article 45.051(b-1), Code of Criminal  
25 Procedure, is amended to read as follows:

26 (b-1) If the defendant is younger than 25 years of age and  
27 the offense committed by the defendant is a traffic offense

1 classified as a moving violation:

2 (1) Subsection (b)(8) does not apply;

3 (2) during the deferral period, the judge[+

4 [~~A~~] shall require the defendant to complete a  
5 driving safety course approved under Chapter 1001, Education Code;  
6 and

7 [~~B~~] ~~may require the defendant to complete an~~  
8 ~~additional driving safety course designed for drivers younger than~~  
9 ~~25 years of age and approved under Section 1001.111, Education~~  
10 ~~Code, and]~~

11 (3) if the defendant holds a provisional license,  
12 during the deferral period the judge shall require that the  
13 defendant be examined by the Department of Public Safety as  
14 required by Section 521.161(b)(2), Transportation Code; a  
15 defendant is not exempt from the examination regardless of whether  
16 the defendant was examined previously.

17 SECTION 4.58. Section 28.012(a)(3), Education Code, is  
18 amended to read as follows:

19 (3) "Driver training provider [~~school~~]" has the  
20 meaning assigned by Section 1001.001.

21 SECTION 4.59. Section 28.012(e), Education Code, is amended  
22 to read as follows:

23 (e) Subject to rules adopted by the board, a school district  
24 or open-enrollment charter school may tailor the instruction  
25 developed under this section as appropriate for the district's or  
26 school's community. In tailoring the instruction, the district or  
27 school shall solicit input from local law enforcement agencies,

1 driver training providers [~~schools~~], and the community.

2 SECTION 4.60. Section 29.902(c), Education Code, is amended  
3 to read as follows:

4 (c) A school district shall consider offering a driver  
5 education and traffic safety course during each school year. If the  
6 district offers the course, the district may:

7 (1) conduct the course and charge a fee for the course  
8 in the amount determined by the agency to be comparable to the fee  
9 charged by a driver education provider [~~school~~] that holds a  
10 license under Chapter 1001; or

11 (2) contract with a driver education provider [~~school~~]  
12 that holds a license under Chapter 1001 to conduct the course.

13 SECTION 4.61. Section 123.007, Government Code, is amended  
14 to read as follows:

15 Sec. 123.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS  
16 PROGRAMS. In addition to using a drug court program established  
17 under this chapter, the commissioners court of a county or a court  
18 may use other drug awareness [~~or drug and alcohol driving~~  
19 ~~awareness~~] programs to treat persons convicted of drug or alcohol  
20 related offenses.

21 SECTION 4.62. Section 521.165(e), Transportation Code, is  
22 amended to read as follows:

23 (e) The department may authorize an entity described by  
24 Subsection (a), including a driver education provider [~~school~~]  
25 described by Section 521.1655, to administer the examination  
26 required by Section 521.161(b)(2).

27 SECTION 4.63. Sections 521.1655(a) and (a-1),

1 Transportation Code, are amended to read as follows:

2 (a) An in-person [A] driver education provider or online  
3 driver education provider ~~[school]~~ licensed under Chapter 1001,  
4 Education Code, may administer to a student of that provider  
5 ~~[school]~~ the vision, highway sign, and traffic law parts of the  
6 examination required by Section 521.161.

7 (a-1) A parent-taught driver education ~~[course]~~ provider  
8 licensed ~~[approved]~~ under Chapter 1001, Education Code, ~~[Section~~  
9 ~~521.205]~~ may administer to a student of that course the highway sign  
10 and traffic law parts of the examination required by Section  
11 521.161.

12 SECTION 4.64. Sections 521.206(a) and (b), Transportation  
13 Code, are amended to read as follows:

14 (a) The department shall collect data regarding collisions  
15 of students taught by public schools, driver education providers  
16 ~~[schools]~~ licensed under Chapter 1001, Education Code, and other  
17 entities that offer driver education courses to students for which  
18 a uniform certificate of course completion is issued. The  
19 collision rate is computed by determining the number of an entity's  
20 students who complete a driver education course during a state  
21 fiscal year, dividing that number by the number of collisions that  
22 involved students who completed such a course and that occurred in  
23 the 12-month period following their licensure, and expressing the  
24 quotient as a percentage.

25 (b) The department shall collect data regarding the  
26 collision rate of students taught by course instructors approved  
27 under Section 1001.112, Education Code. The collision rate is

1 computed by determining the number of students who completed a  
2 course taught [~~approved~~] under that section [~~Section 1001.112,~~  
3 ~~Education Code,~~] during a state fiscal year, dividing that number  
4 by the number of collisions that involved students who completed  
5 such a course and that occurred in the 12-month period following  
6 their licensure, and expressing the quotient as a percentage.

7 SECTION 4.65. Section 521.222(a), Transportation Code, is  
8 amended to read as follows:

9 (a) The department may issue a learner license, including a  
10 Class A or Class B driver's learner license, to a person who:

11 (1) is 15 years of age or older but under 18 years of  
12 age;

13 (2) has satisfactorily completed and passed the  
14 classroom phase of an approved driver education course, which may  
15 be a course taught [~~approved~~] under Section 1001.112, Education  
16 Code;

17 (3) meets the requirements imposed under Section  
18 521.204(a)(3); and

19 (4) has passed each examination required under Section  
20 521.161 other than the driving test.

21 SECTION 4.66. Section 542.304(a), Transportation Code, as  
22 added by Chapter 1094 (H.B. 2048), Acts of the 86th Legislature,  
23 Regular Session, 2019, is amended to conform to Section 4.40,  
24 Chapter 1352 (S.B. 346), Acts of the 86th Legislature, Regular  
25 Session, 2019, and is further amended to read as follows:

26 (a) The department by rule shall designate the offenses  
27 involving the operation of a motor vehicle that constitute a moving

1 violation of the traffic law for the purposes of:

- 2           (1) ~~[Article 102.022(a), Code of Criminal Procedure,~~  
3           ~~[(2)]~~ Section 1001.112(b)(4) ~~[1001.112(a-2)]~~,  
4 Education Code;  
5           (2) ~~[(3)]~~ Section 411.110(f), Government Code; and  
6           (3) ~~[(4)]~~ Sections 773.0614(b) and 773.06141(a),  
7 Health and Safety Code.

8           SECTION 4.67. The following provisions are repealed:

- 9           (1) Article 45.0511(u), Code of Criminal Procedure;  
10          (2) Sections 1001.001(4), (7), (10), and (11),  
11 Education Code;  
12          (3) Sections 1001.056(a) and (f), Education Code;  
13          (4) Section 1001.1015(c), Education Code;  
14          (5) Sections 1001.103 and 1001.111, Education Code;  
15          (6) Section 1001.151(e), Education Code;  
16          (7) Sections 1001.205 and 1001.208, Education Code;  
17          (8) Section 1001.251(b), Education Code;  
18          (9) Section 1001.2531(a), Education Code;  
19          (10) Sections 1001.2532, 1001.2533, 1001.2534,  
20 1001.2535, 1001.303, 1001.304, 1001.354, 1001.3541, and 1001.3542,  
21 Education Code;  
22          (11) the heading to Subchapter K, Chapter 1001,  
23 Education Code;  
24          (12) Section 545.412(g), Transportation Code; and  
25          (13) Section 545.413(i), Transportation Code.

26           SECTION 4.68. On December 1, 2021:

- 27           (1) the terms of members serving on the driver

1 training and traffic safety advisory committee under Section  
2 1001.058, Education Code, immediately before that date expire; and

3 (2) the presiding officer of the Texas Commission of  
4 Licensing and Regulation shall appoint members of the driver  
5 training and traffic safety advisory committee having  
6 qualifications that correspond as closely as possible to the  
7 qualifications provided under the changes in law made by this Act to  
8 Section 1001.058, Education Code, with initial terms as follows:

9 (A) three members to terms expiring February 1,  
10 2023;

11 (B) three members to terms expiring February 1,  
12 2025; and

13 (C) three members to terms expiring February 1,  
14 2027.

15 SECTION 4.69. Not later than June 1, 2023, the Texas  
16 Department of Licensing and Regulation and the Department of Public  
17 Safety of the State of Texas shall enter into the memorandum of  
18 understanding required by Section 1001.060, Education Code, as  
19 added by this article.

20 SECTION 4.70. (a) Not later than June 1, 2023, the Texas  
21 Commission of Licensing and Regulation shall adopt rules necessary  
22 to implement the changes in law made by this article to Chapter  
23 1001, Education Code.

24 (b) A driver education school license, driving safety  
25 school license, or course provider license issued under Chapter  
26 1001, Education Code, before the date the Texas Department of  
27 Licensing and Regulation implements the changes described in

1 Subsection (a) of this section continues to be valid until the date  
2 the license expires. On expiration of that license, the license  
3 holder shall apply for a new license under Chapter 1001, Education  
4 Code, as amended by this article, to continue to provide services  
5 for which a license is required by that chapter.

6 (c) Notwithstanding Chapter 1001, Education Code, as  
7 amended by this article, a person who provides driver education  
8 course materials to persons conducting parent-taught driver  
9 education under Section 1001.112, Education Code, as amended by  
10 this article, is not required to hold a parent-taught driver  
11 education provider license under Chapter 1001, Education Code,  
12 before November 1, 2023.

13 SECTION 4.71. The changes in law made by this article to  
14 Section 106.115, Alcoholic Beverage Code, and Article 45.051, Code  
15 of Criminal Procedure, with respect to participation in a  
16 court-ordered program or course, apply to a court order entered on  
17 or after September 1, 2021. A court order entered before that date  
18 is governed by the law in effect on the date the order was entered,  
19 and the former law is continued in effect for that purpose.

20 SECTION 4.72. To the extent of any conflict, this article  
21 prevails over another Act of the 87th Legislature, Regular Session,  
22 2021, relating to nonsubstantive additions to and corrections in  
23 enacted codes.

#### 24 ARTICLE 5. RESIDENTIAL SERVICE CONTRACTS

25 SECTION 5.01. Section 1101.006, Occupations Code, is  
26 amended to read as follows:

27 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real

1 Estate Commission is subject to Chapter 325, Government Code (Texas  
2 Sunset Act). Unless continued in existence as provided by that  
3 chapter, the commission is abolished and this chapter and [7]  
4 Chapter 1102[~~7~~ and ~~Chapter 1303~~] of this code and Chapter 221,  
5 Property Code, expire September 1, 2025.

6 SECTION 5.02. Section 1304.003(a), Occupations Code, is  
7 amended by amending Subdivision (2) and adding Subdivision (4) to  
8 read as follows:

9 (2) "Service contract" means an agreement that is  
10 entered into for a separately stated consideration and for a  
11 specified term under which a provider agrees to:

12 (A) repair, replace, or maintain a product, or  
13 provide indemnification for the repair, replacement, or  
14 maintenance of a product, for operational or structural failure or  
15 damage caused by a defect in materials or workmanship or by normal  
16 wear;

17 (B) provide identity recovery, if the service  
18 contract is financed under Chapter 348 or 353, Finance Code; [~~or~~]

19 (C) provide compensation to the buyer of a  
20 vehicle on the total constructive loss under a depreciation benefit  
21 optional member program; or

22 (D) provide a service, reimbursement, or payment  
23 under a residential service contract.

24 (4) "Residential service contract" means a service  
25 contract of any duration under which a provider agrees to, in the  
26 event of the operational or structural failure of, damage caused by  
27 a power surge to, a defect in materials or workmanship of, or damage

1 caused by normal wear to a structural component, an appliance, or an  
2 electrical, plumbing, heating, cooling, or air-conditioning system  
3 of a residential property that is attached to or located on the  
4 residential property:

5 (A) service, maintain, repair, or replace all or  
6 any part of the structural component, appliance, or electrical,  
7 plumbing, heating, cooling, or air-conditioning system;

8 (B) provide incidental payment of indemnity  
9 under limited circumstances, including food spoilage; or

10 (C) provide reimbursement or payment instead of  
11 service, repair, or replacement when a part, structural component,  
12 appliance, or service provider or technician is unavailable.

13 SECTION 5.03. Section 1304.003(b), Occupations Code, is  
14 amended to read as follows:

15 (b) A service contract described by Subsection (a)(2)(A)  
16 may ~~also~~ provide for:

17 (1) incidental payment or indemnity under limited  
18 circumstances, including towing, rental, and emergency road  
19 service;

20 (2) the repair or replacement of a product for damage  
21 resulting from a power surge or for accidental damage incurred in  
22 handling the product;

23 (3) identity recovery, if the service contract is  
24 financed under Chapter 348 or 353, Finance Code; or

25 (4) the replacement of a motor vehicle key or key fob  
26 in the event the key or key fob is inoperable, lost, or stolen.

27 SECTION 5.04. Section 1304.004(b), Occupations Code, is

1 amended to read as follows:

2 (b) This chapter does not apply to:

3 (1) a warranty;

4 (2) a maintenance agreement;

5 (3) a service contract sold or offered for sale to a  
6 person who is not a consumer;

7 (4) ~~[a residential service contract sold by an entity  
8 licensed by the Texas Real Estate Commission under Chapter 1303,~~

9 ~~[(5)]~~ an agreement issued by an automobile service club  
10 that holds a certificate of authority under Chapter 722,  
11 Transportation Code;

12 (5) ~~[(6)]~~ a service contract sold by a motor vehicle  
13 dealer on a motor vehicle sold by that dealer, if the dealer:

14 (A) is the provider;

15 (B) is licensed as a motor vehicle dealer under  
16 Chapter 2301; and

17 (C) covers its obligations under the service  
18 contract with a reimbursement insurance policy; or

19 (6) ~~[(7)]~~ a contract offered by a local exchange  
20 telephone company that provides for the repair of inside telephone  
21 wiring, if:

22 (A) the contract term does not exceed one month;  
23 and

24 (B) the consumer can terminate the contract  
25 before a new contract term begins without liability except for  
26 payment of charges for the term that has begun.

27 SECTION 5.05. Subchapter A, Chapter 1304, Occupations Code,

1 is amended by adding Section 1304.0041 to read as follows:

2       Sec. 1304.0041. CERTAIN EXEMPT AGREEMENTS. This chapter  
3 does not apply to:

4               (1) a performance guarantee offered by:

5                       (A) the builder of a residential property; or

6                       (B) the manufacturer or seller of an appliance or  
7 other system or component of a residential property;

8               (2) a residential service contract executed before  
9 August 28, 1979;

10              (3) a guarantee or warranty that is:

11                      (A) designed to guarantee or warrant the repair  
12 or service of an appliance, system, or component of a residential  
13 property; and

14                      (B) issued by a person who sells, services,  
15 repairs, or replaces the appliance, system, or component at the  
16 time or before the guarantee or warranty is issued;

17              (4) a service or maintenance agreement or a warranty  
18 that:

19                      (A) is sold, offered for sale, or issued by a  
20 manufacturer or merchant who manufactures or sells a product or  
21 part of a product, including a structural component, an appliance,  
22 or an electrical, plumbing, heating, cooling, or air-conditioning  
23 system of a building or residence; and

24                      (B) provides for, warrants, or guarantees the  
25 maintenance, repair, replacement, or performance of the product or  
26 part of the product; or

27              (5) home warranty insurance as defined by Section

1 2005.001, Insurance Code.

2 SECTION 5.06. Section 1304.005, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1304.005. EXEMPTIONS FROM CERTAIN OTHER LAWS.  
5 Marketing, selling, offering for sale, issuing, making, proposing  
6 to make, and administering a service contract are exempt from:

7 (1) [~~Chapter 1303,~~

8 [~~(2)~~] Chapter 722, Transportation Code; and

9 (2) [~~(3)~~] the Insurance Code and other laws of this  
10 state regulating the business of insurance.

11 SECTION 5.07. Section 1304.151, Occupations Code, is  
12 amended by amending Subsection (b) and adding Subsection (b-4) to  
13 read as follows:

14 (b) If the provider ensures its obligations under  
15 Subsection (a)(2), the amount maintained in the reserve account may  
16 not be less than an amount equal to 40 percent of the gross  
17 consideration the provider received from consumers from the sale of  
18 all service contracts issued and outstanding in this state, minus  
19 any claims paid. The executive director may review and examine the  
20 reserve account. Except as provided by Subsections [~~Subsection~~]  
21 (b-1) and (b-4), the amount of the security deposit may not be less  
22 than \$250,000. The provider must submit to the executive director  
23 on request a copy of the provider's financial statements that must  
24 be prepared in accordance with generally accepted accounting  
25 principles, be without qualification as to the going concern status  
26 of the provider, and be audited by an independent certified public  
27 accountant. The commission by rule may require the provider to

1 submit additional financial reports.

2 (b-4) The amount of the security deposit required under  
3 Subsection (b) may not be less than \$25,000 for a provider of a  
4 residential service contract.

5 SECTION 5.08. Section 1304.156, Occupations Code, is  
6 amended by adding Subsection (f) to read as follows:

7 (f) A residential service contract must state that the  
8 provider agrees that, under normal circumstances, the provider will  
9 initiate the performance of services not later than 48 hours after  
10 the contract holder requests the services.

11 SECTION 5.09. Subchapter D, Chapter 1304, Occupations Code,  
12 is amended by adding Section 1304.157 to read as follows:

13 Sec. 1304.157. RESIDENTIAL SERVICE CONTRACTS. (a) A  
14 person may not sell, offer to sell, arrange or solicit the sale of,  
15 or receive an application for a residential service contract unless  
16 the person is:

17 (1) employed by a provider or administrator of a  
18 residential service contract who is licensed under this chapter; or

19 (2) licensed as a real estate sales agent, real estate  
20 broker, mobile home dealer, or insurance agent in this state.

21 (b) Notwithstanding Subsection (a), a person compensated by  
22 a provider or administrator, but who is not employed by that  
23 provider or administrator, may sell, offer to sell, arrange or  
24 solicit the sale of, or receive an application for a residential  
25 service contract if the contract contains the following statement  
26 in at least 10-point boldface type: "NOTICE: THIS COMPANY PAYS  
27 PERSONS NOT EMPLOYED BY THE PROVIDER FOR THE SALE, ADVERTISING,

1 INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER  
2 CHAPTER 1304, OCCUPATIONS CODE." For purposes of Subsection (a) and  
3 this subsection, a person is employed by a provider or  
4 administrator if, in connection with the person selling, offering  
5 to sell, arranging or soliciting the sale of, or receiving  
6 applications for residential service contracts, the provider or  
7 administrator:

8           (1) directs and controls the person's performance; and

9           (2) is responsible for representations made by the  
10 person when acting within the scope of the person's employment.

11       (c) Notwithstanding Section 1304.151(a)(1), a provider of a  
12 residential service contract may use a reimbursement insurance  
13 policy issued by a captive insurance company as defined by Section  
14 964.001, Insurance Code, to insure the provider's residential  
15 service contracts if the provider maintains a funded reserve equal  
16 to not less than 25 percent of the gross consideration the provider  
17 received from consumers from the sale of all the provider's service  
18 contracts issued and outstanding in this state, minus any claims  
19 paid. A reimbursement insurance policy issued to a residential  
20 service contract provider in accordance with this subsection:

21           (1) is not subject to Section 1304.152; and

22           (2) is considered to satisfy the requirements of  
23 Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

24       SECTION 5.10. Chapter 1303, Occupations Code, is repealed.

25       SECTION 5.11. Not later than June 1, 2022, the Texas  
26 Commission of Licensing and Regulation shall adopt rules necessary  
27 to implement the changes in law made by this article to Chapter

1 1304, Occupations Code.

2       SECTION 5.12. (a) A residential service company licensed  
3 under former Chapter 1303, Occupations Code, that on May 1, 2021,  
4 maintained security in accordance with former Section 1303.154,  
5 Occupations Code, shall continue to maintain security in an amount  
6 not less than the amount required under that section until  
7 September 1, 2026, and the former law is continued in effect for  
8 that purpose.

9       (b) A residential service company described by Subsection  
10 (a) of this section that is operating as a residential service  
11 contract provider licensed under Chapter 1304, Occupations Code, as  
12 amended by this article, is not required to comply with the security  
13 requirements for residential service contract providers under  
14 Chapter 1304, Occupations Code, as amended by this article, until  
15 September 1, 2026.

16       (c) Not later than September 1, 2022, a residential service  
17 company described by Subsection (a) of this section that is  
18 operating as a residential service contract provider licensed under  
19 Chapter 1304, Occupations Code, as amended by this article, shall  
20 update the company's financial security documents to:

21               (1) list the Texas Department of Licensing and  
22 Regulation as a party to the financial security document; and

23               (2) replace each reference to the Texas Real Estate  
24 Commission with a reference to the Texas Department of Licensing  
25 and Regulation.

26       SECTION 5.13. (a) In this section, "department" means the  
27 Texas Department of Licensing and Regulation.

1 (b) On September 1, 2021:

2 (1) a license issued by the Texas Real Estate  
3 Commission under former Chapter 1303, Occupations Code, is  
4 continued in effect as a license of the department;

5 (2) all rules, fees, policies, procedures, decisions,  
6 and forms of the Texas Real Estate Commission that relate to a  
7 program or activity transferred under this article are continued in  
8 effect as rules, fees, policies, procedures, decisions, and forms  
9 of the Texas Commission of Licensing and Regulation or the  
10 department, as applicable, and remain in effect until changed by  
11 the Texas Commission of Licensing and Regulation or the department;  
12 and

13 (3) a complaint, investigation, contested case, or  
14 other proceeding related to a program that is transferred under  
15 this article and that is pending on September 1, 2021, is  
16 transferred without change in status to the Texas Commission of  
17 Licensing and Regulation or the department, as appropriate.

18 (c) On September 1, 2021:

19 (1) all money, contracts, leases, property, software  
20 source code and documentation, records, and obligations of the  
21 Texas Real Estate Commission relating to a program or activity  
22 transferred to the department under this article are transferred to  
23 the department; and

24 (2) the unexpended and unobligated balance of any  
25 money appropriated by the legislature relating to that program or  
26 activity is transferred to the department.

27 (d) As soon as practicable after September 1, 2021, the

1 Texas Real Estate Commission shall transfer to the Texas Commission  
2 of Licensing and Regulation or the department, as appropriate, any  
3 bond, reimbursement insurance policy, or other security held for a  
4 residential service company that relates to a program or activity  
5 transferred under this article.

6 (e) Unless the context indicates otherwise, a reference in  
7 law or administrative rule to the Texas Real Estate Commission with  
8 respect to a program or activity transferred from the Texas Real  
9 Estate Commission to the department under this article means the  
10 Texas Commission of Licensing and Regulation or the department, as  
11 appropriate.

12 (f) The Texas Real Estate Commission shall provide the  
13 department with access to any systems, facilities, or information  
14 necessary to implement the change in law made by this article.

15 ARTICLE 6. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

16 SECTION 6.01. Section 401.304(a), Occupations Code, is  
17 amended to read as follows:

18 (a) To be eligible for licensing as a speech-language  
19 pathologist or audiologist, an applicant must:

20 (1) if the application is for a license in:

21 (A) speech-language pathology, possess at least  
22 a master's degree with a major in at least one of the areas of  
23 communicative sciences or disorders from a program accredited by a  
24 national accrediting organization that is approved by the  
25 commission or department and recognized by the United States  
26 secretary of education under the Higher Education Act of 1965 (20  
27 U.S.C. Section 1001 et seq.) in an accredited or approved college or

1 university; or

2 (B) audiology, possess at least a master's  
3 [~~doctoral~~] degree in audiology or a related hearing science from a  
4 program accredited by a national accrediting organization that is  
5 approved by the commission or department and recognized by the  
6 United States secretary of education under the Higher Education Act  
7 of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or  
8 approved college or university;

9 (2) submit a transcript from a public or private  
10 institution of higher learning showing successful completion of  
11 course work in amounts set by the commission by rule in:

12 (A) normal development and use of speech,  
13 language, and hearing;

14 (B) evaluation, habilitation, and rehabilitation  
15 of speech, language, and hearing disorders; and

16 (C) related fields that augment the work of  
17 clinical practitioners of speech-language pathology and audiology;

18 (3) have successfully completed at least 36 semester  
19 hours in courses that are acceptable toward a graduate degree by the  
20 college or university in which the courses are taken, at least 24 of  
21 which must be in the professional area for which the license is  
22 requested;

23 (4) have completed the minimum number of hours,  
24 established by the commission by rule, of supervised clinical  
25 experience with persons who present a variety of communication  
26 disorders; and

27 (5) have completed the full-time supervised

1 professional experience, as defined by commission rule, in which  
2 clinical work has been accomplished in the major professional area  
3 for which the license is being sought.

4 SECTION 6.02. Section 401.304(a), Occupations Code, as  
5 amended by this article, applies only to a license application  
6 submitted on or after September 1, 2021. A license application  
7 submitted before that date is governed by the law in effect on the  
8 date the license application was submitted, and the former law is  
9 continued in effect for that purpose.

#### 10 ARTICLE 7. REGULATION OF RACING

11 SECTION 7.01. Subchapter C, Chapter 51, Occupations Code,  
12 is amended by adding Section 51.1041 to read as follows:

13 Sec. 51.1041. PEACE OFFICERS. (a) The department may  
14 commission as a peace officer an employee who has been certified as  
15 qualified to be a peace officer by the Texas Commission on Law  
16 Enforcement.

17 (b) A peace officer commissioned by the department may  
18 enforce any provision of this chapter relating to the regulation of  
19 racing or any law establishing a program regulated by the  
20 department under Subtitle A-1, Title 13, related to the regulation  
21 of racing.

22 (c) A peace officer commissioned under this section has the  
23 powers, privileges, and immunities of a peace officer while  
24 carrying out duties authorized by this chapter or a law  
25 establishing a program regulated by the department.

26 SECTION 7.02. Section 2021.003, Occupations Code, is  
27 amended by amending Subdivisions (2), (8), (9), (14), (20), (21),

1 (24), (35), and (54) and adding Subdivisions (2-a) and (12-a) to  
2 read as follows:

3 (2) "Active license" means a racetrack license  
4 designated by the department [~~commission~~] as active.

5 (2-a) "Advisory board" means the Texas Racing Advisory  
6 Board.

7 (8) "Commission" means the Texas [~~Racing~~] Commission  
8 of Licensing and Regulation.

9 (9) "Concessionaire" means a person licensed by the  
10 department [~~commission~~] to sell refreshments or souvenirs at a  
11 racetrack.

12 (12-a) "Department" means the Texas Department of  
13 Licensing and Regulation.

14 (14) "Executive director" means the executive  
15 director of the department [~~commission~~].

16 (20) "Horsemen's organization" means an organization  
17 recognized by the department [~~commission~~] that:

18 (A) represents horse owners and trainers in  
19 negotiating and contracting with racetrack associations on  
20 subjects relating to racing; and

21 (B) represents and advocates the interests of  
22 horse owners and trainers before administrative, legislative, and  
23 judicial forums.

24 (21) "Inactive license" means a racetrack license  
25 designated by the department [~~commission~~] as inactive.

26 (24) "Maiden" means a horse that has never won a race  
27 at a race meeting authorized by the department [~~commission~~] or by

1 another racing jurisdiction.

2 (35) "Performance" means the consecutive running of a  
3 specified number of greyhound races as determined by the department  
4 [~~commission~~].

5 (54) "Trainer" means a person who is licensed by the  
6 department [~~commission~~] to train horses or greyhounds.

7 SECTION 7.03. Sections 2021.004(1) and (5), Occupations  
8 Code, are amended to read as follows:

9 (1) "Authorized agent" means a person appointed by an  
10 owner of a horse to represent the owner. The term is limited to a  
11 person who is appointed by a written instrument that the department  
12 [~~commission~~] acknowledges and approves.

13 (5) "Jockey" or "apprentice jockey" means a  
14 professional rider licensed by the department [~~commission~~] to ride  
15 in horse races.

16 SECTION 7.04. Section 2021.006, Occupations Code, is  
17 amended to read as follows:

18 Sec. 2021.006. RELEASE OF CIVIL LIABILITY. A ~~commission~~  
19 member, the executive director, a department [~~commission~~]  
20 employee, a steward or judge, a racetrack association, a horsemen's  
21 organization, or any other person regulated under this subtitle is  
22 not liable for a cause of action that arises out of that person's  
23 performance or exercise of discretion in the implementation or  
24 enforcement of this subtitle or a rule adopted under this subtitle  
25 if the person has acted in good faith.

26 SECTION 7.05. Sections 2021.008(a), (b), (c), and (d),  
27 Occupations Code, are amended to read as follows:

1           (a) The advisory board [~~commission~~] is subject to Chapter  
2 325, Government Code (Texas Sunset Act). The advisory board shall  
3 be reviewed during the period in which the commission and  
4 department are reviewed under Section 51.002. Unless the advisory  
5 board is continued in existence and the commission and department  
6 are continued in existence as provided by that section, [chapter,  
7 and except as provided by Subsections (b) and (c), [the commission  
8 is abolished and] this subtitle expires on the date provided by that  
9 section [~~September 1, 2021~~].

10           (b) If, at the time the commission, department, and advisory  
11 board would be abolished under Subsection (a), a racetrack  
12 association has outstanding long-term liabilities:

13                 (1) the racetrack association may continue to operate  
14 for a period not to exceed one year after those liabilities are  
15 satisfied; and

16                 (2) the commission, the department, and this subtitle  
17 are continued in effect for the purpose of regulating that  
18 racetrack association under this subtitle.

19           (c) If the commission, the department, and this subtitle are  
20 continued in effect under Subsection (b), the commission and the  
21 department are [is] abolished and this subtitle expires on the  
22 first day of the state fiscal year following the state fiscal year  
23 in which the commission certifies to the secretary of state that no  
24 racetrack associations are operating under the terms of Subsection  
25 (b).

26           (d) A racetrack association that continues to operate under  
27 Subsection (b) may not incur any new liability without commission

1 or department approval. At the beginning of that period, the  
2 commission or department shall:

3 (1) review the outstanding liabilities of the  
4 racetrack association; and

5 (2) set a specific date by which the racetrack  
6 association must retire its outstanding liabilities.

7 SECTION 7.06. The heading to Chapter 2022, Occupations  
8 Code, is amended to read as follows:

9 CHAPTER 2022. TEXAS RACING ADVISORY BOARD [~~COMMISSION~~]

10 SECTION 7.07. The heading to Section 2022.001, Occupations  
11 Code, is amended to read as follows:

12 Sec. 2022.001. ADVISORY BOARD [~~COMMISSION~~] MEMBERSHIP.

13 SECTION 7.08. Section 2022.001(a), Occupations Code, is  
14 amended to read as follows:

15 (a) The Texas Racing Advisory Board [~~commission~~] consists  
16 of 11 [+]

17 [~~(1) — seven~~] members appointed by the presiding officer  
18 of the commission, with commission approval, as follows:

19 (1) one member who is a representative of a racetrack  
20 association holding a class 1 racetrack license;

21 (2) one member who is a representative of a racetrack  
22 association holding a class 2 racetrack license;

23 (3) one member who is a representative of a racetrack  
24 association holding a class 3 racetrack license;

25 (4) one member who is a representative of a racetrack  
26 association holding a greyhound racetrack license;

27 (5) one member who is a representative of the Texas

1 Horsemen's Partnership;

2 (6) one member who is a representative of the Texas  
3 Thoroughbred Association;

4 (7) one member who is a representative of the Texas  
5 Quarter Horse Association;

6 (8) one member who is a representative of the Texas  
7 Greyhound Association;

8 (9) one member who is a veterinarian; and

9 (10) two members of the public ~~[governor with the~~  
10 ~~advice and consent of the senate, and~~

11 ~~[(2) two ex officio members who have the right to~~  
12 ~~vote].~~

13 SECTION 7.09. Subchapter A, Chapter 2022, Occupations Code,  
14 is amended by adding Section 2022.0011 to read as follows:

15 Sec. 2022.0011. DUTIES OF ADVISORY BOARD. The advisory  
16 board shall provide advice and recommendations to the department on  
17 technical matters relevant to the administration of this subtitle.

18 SECTION 7.10. The heading to Section 2022.002, Occupations  
19 Code, is amended to read as follows:

20 Sec. 2022.002. TERM OF OFFICE; VACANCIES.

21 SECTION 7.11. Section 2022.002, Occupations Code, is  
22 amended by amending Subsection (a) and adding Subsection (c) to  
23 read as follows:

24 (a) Advisory board ~~[Appointed commission]~~ members hold  
25 office for staggered terms of six years with the terms of ~~[two or]~~  
26 three members expiring February 1 of each odd-numbered year.

27 (c) If a vacancy occurs during a member's term, the

1 presiding officer of the commission, with commission approval,  
2 shall appoint a member to fill the vacancy for the remainder of the  
3 unexpired term.

4 SECTION 7.12. Section 2022.008, Occupations Code, is  
5 amended to read as follows:

6 Sec. 2022.008. PRESIDING OFFICER. (a) The presiding  
7 officer of the commission [~~governor~~] shall designate a [~~public~~]  
8 member of the advisory board [~~commission~~] as the presiding officer  
9 of the advisory board [~~commission~~] to serve in that capacity for a  
10 one-year term [~~at the pleasure of the governor~~].

11 (b) The presiding officer of the advisory board may vote on  
12 any matter before the advisory board.

13 SECTION 7.13. The heading to Section 2022.009, Occupations  
14 Code, is amended to read as follows:

15 Sec. 2022.009. ADVISORY BOARD [~~COMMISSION~~] MEETINGS [~~+~~  
16 ~~RECORD OF COMMISSION VOTES~~].

17 SECTION 7.14. Section 2022.009(a), Occupations Code, is  
18 amended to read as follows:

19 (a) The advisory board [~~commission~~] shall meet at the call  
20 of the presiding officer of the commission or the executive  
21 director [~~hold at least six regular meetings each year on dates~~  
22 ~~fixed by the commission~~].

23 SECTION 7.15. The heading to Section 2022.052, Occupations  
24 Code, is amended to read as follows:

25 Sec. 2022.052. [~~EMPLOYEES,~~] RESTRICTIONS ON EMPLOYMENT.

26 SECTION 7.16. Section 2022.052(c), Occupations Code, is  
27 amended to read as follows:

1 (c) The commission or department may not employ or continue  
2 to employ a person who:

3 (1) owns or controls a financial interest in a  
4 [~~commission~~] license holder under this subtitle;

5 (2) is employed by or serves as a paid consultant to a  
6 [~~commission~~] license holder under this subtitle, an official state  
7 breed registry, or a Texas trade association, as defined by Section  
8 51.0535(a) [~~2022.004(a)~~], in the field of horse or greyhound racing  
9 or breeding;

10 (3) owns or leases a race animal that participates in  
11 pari-mutuel racing in this state;

12 (4) accepts or is entitled to any part of the purse or  
13 Texas-bred incentive award to be paid on a horse or a greyhound in a  
14 race conducted in this state; or

15 (5) resides with or is related within the first degree  
16 by affinity or consanguinity to a person subject to a  
17 disqualification prescribed by this subsection.

18 SECTION 7.17. The heading to Section 2022.103, Occupations  
19 Code, is amended to read as follows:

20 Sec. 2022.103. DEPARTMENT [~~COMMISSION~~] INVESTIGATIVE FILES  
21 CONFIDENTIAL.

22 SECTION 7.18. Sections 2022.103(a), (b), and (c),  
23 Occupations Code, are amended to read as follows:

24 (a) The contents of the investigatory files of the  
25 department [~~commission~~] are not public records and are confidential  
26 except:

27 (1) in a criminal proceeding;

1 (2) in a hearing conducted by the State Office of  
2 Administrative Hearings or the commission;

3 (3) on court order; or

4 (4) with the consent of the party being investigated.

5 (b) Except as otherwise provided by this subtitle, the  
6 files, records, information, compilations, documents, photographs,  
7 reports, summaries, and reviews of information and related matters  
8 that are collected, retained, or compiled by the Department of  
9 Public Safety in the discharge of the Department of Public Safety's  
10 ~~[department's]~~ duties under this subtitle are confidential and are  
11 not subject to public disclosure, but are subject to discovery by a  
12 person who is the subject of the files, records, information,  
13 compilations, documents, photographs, reports, summaries, and  
14 reviews of information and related matters that are collected,  
15 retained, or compiled by the Department of Public Safety  
16 ~~[department]~~ in the discharge of the Department of Public Safety's  
17 ~~[department's]~~ duties under this subtitle.

18 (c) An investigation report or other document submitted by  
19 the Department of Public Safety to the department ~~[commission]~~  
20 becomes part of the investigative files of the department  
21 ~~[commission]~~ and is subject to discovery by a person who is the  
22 subject of the investigation report or other document submitted by  
23 the Department of Public Safety ~~[department]~~ to the department  
24 ~~[commission]~~ that is part of the investigative files of the  
25 department ~~[commission]~~.

26 SECTION 7.19. Section 2022.105(a), Occupations Code, is  
27 amended to read as follows:

1 (a) The department [~~commission~~] shall require racetrack  
2 associations, managers, totalisator license holders, and  
3 concessionaires to keep books and records and to submit financial  
4 statements to the department [~~commission~~].

5 SECTION 7.20. The heading to Chapter 2023, Occupations  
6 Code, is amended to read as follows:

7 CHAPTER 2023. COMMISSION, DEPARTMENT, AND RACE MEETING OFFICIAL  
8 POWERS AND DUTIES

9 SECTION 7.21. Section 2023.001, Occupations Code, is  
10 amended to read as follows:

11 Sec. 2023.001. LICENSING, REGULATION, AND SUPERVISION OF  
12 HORSE RACING AND GREYHOUND RACING. (a) Notwithstanding any  
13 contrary provision in this subtitle, the department under the  
14 direction of the commission may license and regulate all aspects of  
15 horse racing and greyhound racing in this state, regardless of  
16 whether that racing involves pari-mutuel wagering.

17 (b) The commission[~~7~~] in adopting rules and the department  
18 in the supervision and conduct of racing [~~7~~] shall consider the  
19 effect of a proposed [~~commission~~] action on the state's  
20 agricultural, horse breeding, horse training, greyhound breeding,  
21 and greyhound training industry.

22 SECTION 7.22. Section 2023.002, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2023.002. REGULATION AND SUPERVISION OF WAGERING AT  
25 RACE MEETINGS. (a) The department [~~commission~~] shall regulate and  
26 supervise each race meeting in this state that involves wagering on  
27 the result of horse racing or greyhound racing. Each person and

1 thing relating to the operation of a race meeting is subject to  
2 regulation and supervision by the department [~~commission~~].

3 (b) The commission shall adopt rules on the issuance of  
4 licenses and other rules necessary to regulate horse racing and  
5 greyhound racing and the department shall [7] issue licenses[7] and  
6 take any other necessary action relating [~~exclusively~~] to the  
7 regulation of horse racing or greyhound racing.

8 SECTION 7.23. Section 2023.003(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department [~~commission~~] may charge in the amount set  
11 by the commission an annual fee for licensing and regulating a track  
12 that does not offer pari-mutuel wagering or a training facility in a  
13 reasonable amount that may not exceed the actual cost of enforcing  
14 rules adopted by the commission for the licensing and regulation of  
15 races and workouts at such a facility.

16 SECTION 7.24. Section 2023.004(d), Occupations Code, is  
17 amended to read as follows:

18 (d) The department [~~commission~~] shall post at each  
19 racetrack notice of a meeting of the commission [~~under Subsection~~  
20 ~~(e)~~] that includes an agenda of the meeting and a summary of the  
21 proposed rule.

22 SECTION 7.25. Section 2023.006, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2023.006. CONSIDERATION OF PAST PERFORMANCE OF  
25 RACETRACK ASSOCIATION. In considering a pleading of a racetrack  
26 association, the department [~~commission~~] shall take into account  
27 the operating experience of the racetrack association in this

1 state, including:

- 2 (1) the financial condition of the racetrack;
- 3 (2) the regulatory compliance and conduct; and
- 4 (3) any other relevant matter concerning the operation
- 5 of a racetrack.

6 SECTION 7.26. Section 2023.007, Occupations Code, is  
7 amended to read as follows:

8 Sec. 2023.007. RIGHT OF ENTRY. A commission member, a  
9 department employee, an authorized department [~~commission~~] agent  
10 or peace officer, a commissioned officer of the Department of  
11 Public Safety, or a peace officer of the local jurisdiction in which  
12 a racetrack association maintains a place of business may enter any  
13 part of a racetrack or any other place of business of a racetrack  
14 association at any time to enforce and administer this subtitle.

15 SECTION 7.27. Section 2023.008, Occupations Code, is  
16 amended to read as follows:

17 Sec. 2023.008. TESTIMONY AND SUBPOENA POWER. (a) For  
18 purposes of this section, "agent" means an appointed agent of the  
19 department [~~commission~~].

20 (b) A department employee [~~commission member~~] or an agent,  
21 while involved in carrying out functions under this subtitle, may:

- 22 (1) take testimony;
- 23 (2) require by subpoena the attendance of a witness;
- 24 and
- 25 (3) require the production of books, records, papers,  
26 correspondence, and other documents that the commission considers  
27 advisable.

1 (c) A subpoena must be issued under the signature of the  
2 executive director or the executive director's designee  
3 ~~[commission or an agent]~~. A person designated by the executive  
4 director ~~[commission]~~ must serve the subpoena.

5 (d) A department employee ~~[commission member]~~ or an agent  
6 may administer an oath to a witness appearing before the department  
7 ~~[commission]~~ or an agent.

8 (e) If a subpoena issued under this section is disobeyed,  
9 the department ~~[commission]~~ or an agent may invoke the aid of a  
10 Travis County district court in requiring compliance with the  
11 subpoena. A Travis County district court may issue an order  
12 requiring the person to appear and testify and to produce books,  
13 records, papers, correspondence, and documents. Failure to obey  
14 the court order shall be punished by the court as contempt.

15 SECTION 7.28. Sections 2023.051 and 2023.052, Occupations  
16 Code, are amended to read as follows:

17 Sec. 2023.051. RECOGNITION OF ORGANIZATION. (a) The  
18 commission by rule shall adopt criteria to recognize an  
19 organization to represent members of a segment of the racing  
20 industry, including owners, breeders, trainers, kennel operators,  
21 or other persons involved in the racing industry, in any  
22 interaction between the members of the organization and a racetrack  
23 association or the department ~~[commission]~~.

24 (b) The department ~~[commission]~~ may recognize an  
25 organization that meets the criteria adopted under Subsection (a).

26 Sec. 2023.052. SECURITY FOR FEES AND CHARGES. The  
27 department ~~[commission]~~ may require a racetrack association to post

1 security in an amount and form determined by the department  
2 [~~commission~~] to adequately ensure the payment of any fee or charge  
3 due to this state or the department [~~commission~~] relating to  
4 pari-mutuel racing, including a charge for drug testing.

5 SECTION 7.29. Section 2023.053(f), Occupations Code, is  
6 amended to read as follows:

7 (f) This section does not apply to:

8 (1) money deposited into the Texas-bred incentive fund  
9 established under Section 2028.301; or

10 (2) an administrative penalty remitted to the  
11 comptroller for deposit in the general revenue fund under Section  
12 2033.058.

13 SECTION 7.30. The heading to Section 2023.054, Occupations  
14 Code, is amended to read as follows:

15 Sec. 2023.054. [~~COMMISSION~~] STANDARDS ON GREYHOUND FARMS  
16 AND FACILITIES.

17 SECTION 7.31. Sections 2023.056, 2023.057, 2023.058,  
18 2023.059, and 2023.061, Occupations Code, are amended to read as  
19 follows:

20 Sec. 2023.056. COOPERATION WITH LAW ENFORCEMENT. (a) The  
21 department [~~commission~~] shall cooperate with a district attorney, a  
22 criminal district attorney, a county attorney, the Department of  
23 Public Safety, the attorney general, or a peace officer in  
24 enforcing this subtitle.

25 (b) The department [~~commission~~], under department  
26 [~~commission~~] authority to obtain criminal history record  
27 information under Section 2023.057, shall maintain and exchange

1 pertinent intelligence data with other states and agencies.

2       Sec. 2023.057. ACCESS TO CRIMINAL HISTORY RECORDS. The  
3 department [~~commission~~] may obtain criminal history record  
4 information that relates to each applicant for [~~employment by the~~  
5 ~~commission and to each applicant for~~] a license issued under this  
6 subtitle by the department, including an occupational license  
7 described by Section 2025.251(c), [~~commission~~] and that is  
8 maintained by the Department of Public Safety or the Federal Bureau  
9 of Investigation Identification Division. The department  
10 [~~commission~~] may refuse to issue a license to [~~recommend~~] an  
11 applicant who fails to provide a complete set of fingerprints.

12       Sec. 2023.058. COST OF CRIMINAL HISTORY RECORD CHECK. (a)  
13 The commission shall, in determining the amount of a license fee,  
14 set the fee in at least an amount necessary to cover the cost to the  
15 department of conducting a criminal history record check on a  
16 license applicant.

17       (b) The department [~~commission~~] shall reimburse the  
18 Department of Public Safety for the cost of conducting a criminal  
19 history record check under this subtitle.

20       Sec. 2023.059. DISTANCE LEARNING. The department  
21 [~~commission~~] may provide assistance to members of the racing  
22 industry who are attempting to develop or implement adult, youth,  
23 or continuing education programs that use distance learning.

24       Sec. 2023.061. BIENNIAL [~~ANNUAL~~] REPORT. (a) Not later  
25 than January 31 of each odd-numbered year, the department  
26 [~~commission~~] shall file a report with the governor, lieutenant  
27 governor, and speaker of the house of representatives.

1 (b) The report must cover the operations of the department  
2 under this subtitle [~~commission~~] and the condition of horse  
3 breeding and racing and greyhound breeding and racing during the  
4 preceding two-year period [~~previous year~~].

5 (c) The department [~~commission~~] shall obtain from the  
6 Department of Public Safety a comprehensive report of any organized  
7 crime activities in this state [~~that the department may wish to~~  
8 ~~report~~] and information concerning illegal gambling that may be  
9 related to this subtitle known to exist in this state. The  
10 department [~~commission~~] shall include in the biennial [~~annual~~]  
11 report the Department of Public Safety's [~~department's~~] report and  
12 any recommendations the department [~~commission~~] considers  
13 appropriate.

14 SECTION 7.32. Sections 2023.101(b), (c), and (d),  
15 Occupations Code, are amended to read as follows:

16 (b) The department [~~commission~~] shall employ or contract  
17 with each steward and judge for the supervision of a horse race or  
18 greyhound race meeting.

19 (c) The department [~~commission~~] shall designate one steward  
20 or judge, as appropriate, as the presiding steward or judge for each  
21 race meeting.

22 (d) Following the completion of a race meeting, a racetrack  
23 association may submit to the department [~~commission~~] for the  
24 department's [~~commission's~~] review written comments regarding the  
25 job performance of the stewards and judges. A racetrack  
26 association's comments submitted under this section are not  
27 binding, in any way, on the department [~~commission~~].

1       SECTION 7.33. Section 2023.102(a), Occupations Code, is  
2 amended to read as follows:

3       (a) The department [~~commission~~] shall require each steward  
4 or judge to annually take and pass a written examination and a  
5 medical examination.

6       SECTION 7.34. Section 2023.103, Occupations Code, is  
7 amended to read as follows:

8       Sec. 2023.103. [~~EMPLOYMENT OF~~] STATE VETERINARIANS. For  
9 each race meeting, the department [~~commission~~] shall employ or  
10 contract for at least one state veterinarian.

11       SECTION 7.35. Section 2023.104(b), Occupations Code, is  
12 amended to read as follows:

13       (b) The fee amount for compensating each steward, judge, and  
14 state veterinarian must be reasonable according to industry  
15 standards for the compensation of those officials at other  
16 racetracks and may not exceed the actual cost to the department  
17 [~~commission~~] for compensating the officials.

18       SECTION 7.36. Section 2023.105, Occupations Code, is  
19 amended to read as follows:

20       Sec. 2023.105. EMPLOYMENT OF OTHER RACETRACK OFFICIALS.  
21 The racetrack association shall appoint, with the department's  
22 [~~commission's~~] approval, all racetrack officials other than the  
23 officials listed in Section 2023.104. Compensation for officials  
24 not compensated by the department [~~commission~~] is determined by the  
25 racetrack association.

26       SECTION 7.37. Section 2023.106(b), Occupations Code, is  
27 amended to read as follows:

(b) The commission shall adopt rules that specify:

(1) the power and duties of each race meeting official, including the power of a steward or judge to impose penalties for unethical practices or violations of racing rules; and

(2) procedures for hearings conducted under this section.

SECTION 7.38. Section 2023.109, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may adopt rules specifying the requirements for appealing a decision and eligibility of orders for consideration under this section.

SECTION 7.39. Section 2024.002(a), Occupations Code, is amended to read as follows:

(a) The comptroller may inspect all books, records, and financial statements required by the commission or obtained by the department under Section 2022.105.

SECTION 7.40. Sections 2024.053(a) and (b), Occupations Code, are amended to read as follows:

(a) The comptroller shall certify to the department ~~[commission]~~ the fact that a racetrack association or totalisator company:

(1) does not comply with a rule adopted by the comptroller under this chapter;

(2) refuses to allow access to or inspection of any of the racetrack association's or totalisator company's required books, records, or financial statements;

1           (3) refuses to allow access to or inspection of the  
2 totalisator system; or

3           (4) becomes delinquent for:

4                 (A) the state's share of a pari-mutuel pool; or

5                 (B) any other tax collected by the comptroller.

6           (b) With regard to the state's share of a pari-mutuel pool  
7 and any penalty related to the state's share, the comptroller,  
8 acting independently of the department [~~commission~~], may take any  
9 collection or enforcement action authorized under the Tax Code  
10 against a delinquent taxpayer.

11           SECTION 7.41. Sections 2025.001 and 2025.002, Occupations  
12 Code, are amended to read as follows:

13           Sec. 2025.001. COMMISSION AND DEPARTMENT LICENSING DUTIES.

14           (a) To preserve and protect the public health, welfare, and safety,  
15 the commission shall adopt rules relating to license applications  
16 and the financial responsibility [~~, moral character,~~] and ability  
17 of applicants.

18           (b) The department [~~commission~~] shall prescribe application  
19 forms for licenses issued under this subtitle and shall provide  
20 each occupational license holder with a credential.

21           (c) The commission shall [~~annually~~] prescribe reasonable  
22 license fees for each category of license issued under this  
23 subtitle.

24           (d) The commission by rule shall set fees in amounts  
25 reasonable and necessary to cover the department's [~~commission's~~]  
26 costs of regulating, overseeing, and licensing live and simulcast  
27 racing at racetracks.

1           Sec. 2025.002. LICENSE AS PRIVILEGE. The operation of a  
2 racetrack and the participation in racing are privileges, not  
3 rights, granted only by the department [~~commission~~] by license and  
4 subject to reasonable and necessary conditions set by the  
5 commission and department.

6           SECTION 7.42. Sections 2025.003(a), (c), (d), and (e),  
7 Occupations Code, are amended to read as follows:

8           (a) An applicant for a license or license renewal under this  
9 subtitle must, except as otherwise provided by Section 2025.261,  
10 submit to the department [~~commission~~] a complete set of  
11 fingerprints for:

12                   (1) the applicant; or

13                   (2) if the applicant is not an individual, each  
14 officer or director of, and each person who owns at least a five  
15 percent interest in, the applicant.

16           (c) A peace officer of any state[7] or any department  
17 employee designated by the executive director [~~district office of~~  
18 ~~the commission,~~] shall take the fingerprints of an applicant for a  
19 license or license renewal on forms approved and furnished by the  
20 Department of Public Safety and immediately deliver the forms to  
21 the department [~~commission~~].

22           (d) If a complete set of fingerprints is required by the  
23 department [~~commission~~], the department [~~commission~~] shall, not  
24 later than the 10th business day after the date the department  
25 [~~commission~~] receives the fingerprints, forward the fingerprints  
26 to the Department of Public Safety or the Federal Bureau of  
27 Investigation. If the fingerprints are forwarded to the Department

1 of Public Safety, the Department of Public Safety [~~department~~]  
2 shall:

3 (1) classify the fingerprints and check the  
4 fingerprints against the Department of Public Safety's  
5 [~~department's~~] fingerprint files; and

6 (2) report to the department [~~commission~~] the  
7 Department of Public Safety's [~~department's~~] findings concerning  
8 the existence or lack of a criminal record of the applicant.

9 (e) The department [~~commission~~] may not issue a racetrack  
10 license until the report under Subsection (d) is made to the  
11 department [~~commission~~]. The department [~~commission~~] may issue a  
12 temporary occupational license before the report is made to the  
13 department [~~commission~~].

14 SECTION 7.43. Section 2025.051, Occupations Code, is  
15 amended to read as follows:

16 Sec. 2025.051. RACETRACK LICENSE REQUIRED; CRIMINAL  
17 PENALTY. A person may not conduct wagering on a horse or greyhound  
18 race meeting without first obtaining a racetrack license issued by  
19 the department [~~commission~~]. A person who violates this section  
20 commits an offense.

21 SECTION 7.44. Sections 2025.052(a) and (b), Occupations  
22 Code, are amended to read as follows:

23 (a) The department [~~commission~~] shall require each  
24 applicant for an original racetrack license to submit an  
25 application, on a form prescribed by the department [~~commission~~],  
26 containing the following information:

27 (1) if the applicant is an individual:

1 (A) the individual's full name;  
2 (B) the individual's date of birth;  
3 (C) the individual's physical description;  
4 (D) the individual's current address and  
5 telephone number; and  
6 (E) a statement by the individual disclosing any  
7 arrest or conviction for a felony or for a misdemeanor, except a  
8 misdemeanor under Subtitle C, Title 7, Transportation Code, or a  
9 similar misdemeanor traffic offense;  
10 (2) if the applicant is a corporation:  
11 (A) the state of incorporation;  
12 (B) the names and addresses of the corporation's  
13 agents for service of process in this state;  
14 (C) the name and address of each officer and  
15 director of the corporation;  
16 (D) the name and address of each stockholder of  
17 the corporation;  
18 (E) for each individual named under this  
19 subdivision, the information required by Subdivision (1); and  
20 (F) identification of:  
21 (i) any other beneficial owner of a share in  
22 the applicant that has absolute or contingent voting rights;  
23 (ii) any other person who directly or  
24 indirectly exercises any participation in the applicant; and  
25 (iii) any other ownership interest in the  
26 applicant that the applicant making its best effort is able to  
27 identify;

1           (3) if the applicant is an unincorporated business  
2 association:  
3           (A) the name and address of each member of the  
4 association and, for each individual named under this subdivision,  
5 the information required by Subdivision (1); and  
6           (B) identification of:  
7           (i) any other person who exercises voting  
8 rights in the applicant or directly or indirectly exercises any  
9 participation in the applicant; and  
10           (ii) any other ownership interest in the  
11 applicant that the applicant making its best effort is able to  
12 identify;  
13           (4) the exact location at which a race meeting is to be  
14 conducted;  
15           (5) if the racetrack is in existence, whether it is  
16 owned by the applicant and, if leased to the applicant:  
17           (A) the name and address of the owner; and  
18           (B) if the owner is a corporation or  
19 unincorporated business association, the name and address of each  
20 officer and director, any stockholder or member, and each agent for  
21 service of process in this state;  
22           (6) if construction of the racetrack has not been  
23 initiated, whether it is to be owned by the applicant and, if it is  
24 to be leased to the applicant:  
25           (A) the name and address of the prospective  
26 owner; and  
27           (B) if the owner is a corporation or

1 unincorporated business association, the information required by  
2 Subdivision (5)(B);

3 (7) identification of:

4 (A) any other beneficial owner of a share that  
5 has absolute or contingent voting rights in the owner or  
6 prospective owner of the racetrack;

7 (B) any other person that directly or indirectly  
8 exercises any participation in the owner or prospective owner; and

9 (C) all other ownership interest in the owner or  
10 prospective owner that the applicant making its best effort is able  
11 to identify;

12 (8) a detailed statement of the applicant's assets and  
13 liabilities;

14 (9) the type of racing to be conducted and the dates  
15 requested;

16 (10) proof of residency as required by Section  
17 2025.201; and

18 (11) any other information required by the department  
19 [~~commission~~].

20 (b) An application must be attested [~~sworn~~] to:

21 (1) by the applicant; or

22 (2) if the applicant is a corporation or association,  
23 by its chief executive officer.

24 SECTION 7.45. Sections 2025.053(a) and (c), Occupations  
25 Code, are amended to read as follows:

26 (a) The department [~~commission~~] shall require each  
27 applicant for an original racetrack license to pay the required

1 application fee. The fee must accompany the application and be paid  
2 in the form of a cashier's check, ~~[or]~~ certified check, or other  
3 form of payment acceptable to the department.

4 (c) Notwithstanding this section, if a licensed racetrack  
5 petitions for a higher racetrack classification, the department  
6 ~~[commission]~~ shall impose fees equal to the difference between the  
7 fees previously paid and the fees required for the higher  
8 classification.

9 SECTION 7.46. Sections 2025.054(a) and (b), Occupations  
10 Code, are amended to read as follows:

11 (a) The department ~~[commission]~~ shall require each  
12 applicant for an original racetrack license to submit with the  
13 application for inspection and review by the department  
14 ~~[commission]~~ a copy of each management, concession, and totalisator  
15 contract associated with the proposed license at the proposed  
16 location in which the applicant has an interest.

17 (b) An applicant or license holder shall:

18 (1) advise the department ~~[commission]~~ of any change  
19 in any management, concession, or totalisator contract; and

20 (2) at the request of the department, provide any  
21 information the department considers necessary to review the  
22 change.

23 SECTION 7.47. Sections 2025.055 and 2025.056, Occupations  
24 Code, are amended to read as follows:

25 Sec. 2025.055. CONFIDENTIALITY OF APPLICATION DOCUMENTS.  
26 Documents submitted to the department ~~[commission]~~ under Sections  
27 2025.051-2025.054 by an applicant are subject to discovery in a

1 suit brought under this subtitle but are not public records and are  
2 not subject to Chapter 552, Government Code.

3       Sec. 2025.056. BACKGROUND CHECK. (a) The department  
4 [~~commission~~] shall require a complete personal, financial, and  
5 business background check of the applicant or of any person who owns  
6 an interest in or exercises control over an applicant for a  
7 racetrack license, including the partners, stockholders,  
8 concessionaires, management personnel, management firms, and  
9 creditors.

10       (b) The department may [~~commission shall~~] refuse to issue or  
11 renew a license or may revoke a license if [~~in the commission's~~  
12 ~~sole discretion,~~] the background checks reveal anything that may be  
13 detrimental to the public interest or the racing industry. A  
14 proceeding under this section is subject to Subchapter G, Chapter  
15 51.

16       (c) The executive director [~~commission~~] may not hold a  
17 hearing on the application, or any part of the application, of a  
18 racetrack license applicant before the 14th day after the date the  
19 completed background check of the applicant has been on file with  
20 the department [~~commission~~].

21       SECTION 7.48. Section 2025.057(a), Occupations Code, is  
22 amended to read as follows:

23       (a) The department [~~commission~~] may, at any time, require a  
24 holder of or applicant for a racetrack license to post security in  
25 an amount reasonably necessary, as provided by commission rule, to  
26 adequately ensure the license holder's or applicant's compliance  
27 with substantive requirements of this subtitle and commission

1 rules.

2 SECTION 7.49. Section 2025.058, Occupations Code, is  
3 amended to read as follows:

4 Sec. 2025.058. NOTIFICATION OF COMPLETED APPLICATION. When  
5 all requirements for the applicant's licensure described in this  
6 chapter have been satisfied, the department [~~commission~~] shall  
7 notify the applicant that the application is complete.

8 SECTION 7.50. Sections 2025.101(b), (c), (e), and (f),  
9 Occupations Code, are amended to read as follows:

10 (b) In considering an application for a horse racetrack  
11 license under this chapter, the department [~~commission~~] shall give  
12 additional weight to evidence concerning an applicant who has  
13 experience operating a horse racetrack licensed under this  
14 subtitle.

15 (c) The department [~~commission~~] may not issue a license to  
16 operate a class 1 or class 2 racetrack or a greyhound racetrack to a  
17 corporation unless:

18 (1) the corporation is incorporated under the laws of  
19 this state; and

20 (2) a majority of any of its corporate stock is owned  
21 at all times by individuals who meet the residency qualifications  
22 prescribed by Section 2025.201 for individual applicants.

23 (e) Subsections (c) and (d) and Section 2025.201(a)(10)  
24 [~~2025.201(a)(12)~~] do not apply to an applicant for or the holder of  
25 a racetrack license if the applicant, the license holder, or the  
26 license holder's parent company is a publicly traded company.

27 (f) The department [~~commission~~] may condition the issuance

1 of a license under this chapter on the observance of commission  
2 rules. [~~The commission may amend the rules at any time and may~~  
3 ~~condition the continued holding of the license on compliance with~~  
4 ~~the rules as amended.~~]

5 SECTION 7.51. Section 2025.102, Occupations Code, is  
6 amended to read as follows:

7 Sec. 2025.102. QUALIFICATIONS FOR ISSUANCE OF RACETRACK  
8 LICENSE. (a) The department [~~commission~~] may issue a racetrack  
9 license to a qualified person if the department [~~commission~~]:

10 (1) determines that the conduct of race meetings at  
11 the proposed racetrack and location:

12 (A) will be in the public interest;

13 (B) complies with all zoning laws; and

14 (C) complies with this subtitle and commission  
15 rules; and

16 (2) determines by clear and convincing evidence that  
17 the applicant will comply with all criminal laws of this state.

18 (b) In determining whether to grant or deny an application  
19 for any class of racetrack license, the department [~~commission~~] may  
20 consider:

21 (1) the applicant's financial stability;

22 (2) the applicant's resources for supplementing the  
23 purses for races for various breeds;

24 (3) the location of the proposed racetrack;

25 (4) the effect of the proposed racetrack on traffic  
26 flow;

27 (5) facilities for patrons and occupational license

1 holders;

2 (6) facilities for race animals;

3 (7) availability to the racetrack of support services  
4 and emergency services;

5 (8) the experience of the applicant's employees;

6 (9) the potential for conflict with other licensed  
7 race meetings;

8 (10) the anticipated effect of the race meeting on the  
9 horse or greyhound breeding industry in this state; and

10 (11) the anticipated effect of the race meeting on the  
11 state and local economy from tourism, increased employment, and  
12 other sources.

13 (c) The department [~~commission~~] shall make a determination  
14 on a pending application not later than the 120th day after the date  
15 the department [~~commission~~] provides the notice required under  
16 Section 2025.058.

17 SECTION 7.52. Sections 2025.103(a), (c), and (d),  
18 Occupations Code, are amended to read as follows:

19 (a) After a racetrack association has been granted a license  
20 to operate a racetrack and before the completion of construction at  
21 the designated place for which the license was issued, the  
22 department [~~commission~~] may, on application by the racetrack  
23 association, issue a temporary license that authorizes the  
24 racetrack association to conduct races at a location in the same  
25 county until the earlier of:

26 (1) the second anniversary of the date of issuance of  
27 the temporary license; or

1 (2) the completion of the permanent facility.

2 (c) The department [~~commission~~] may set conditions and  
3 standards for issuance of a temporary license and allocation of  
4 appropriate race days.

5 (d) The department [~~commission~~] may not issue a new  
6 temporary license or an extension of a temporary license to a person  
7 or to an individual belonging to a corporation or association that  
8 has been granted a temporary license after the temporary license  
9 has expired.

10 SECTION 7.53. Sections 2025.104(a), (b), and (d),  
11 Occupations Code, are amended to read as follows:

12 (a) The department [~~commission~~] shall designate each  
13 racetrack license as an active license or an inactive license. The  
14 department [~~commission~~] may change the designation of a racetrack  
15 license as appropriate.

16 (b) The department [~~commission~~] shall designate a racetrack  
17 license as an active license if the license holder:

18 (1) holds live racing events at the racetrack; or

19 (2) makes good faith efforts to conduct live racing.

20 (d) Before the first anniversary of the date a new racetrack  
21 license is issued, the department [~~commission~~] shall conduct an  
22 evaluation of the license to determine whether the license is an  
23 active or inactive license.

24 SECTION 7.54. Section 2025.105, Occupations Code, is  
25 amended by amending Subsections (a), (b), (c), (d), and (e) and  
26 adding Subsection (g) to read as follows:

27 (a) The commission by rule shall establish an annual renewal

1 process for inactive licenses and may require the license holder to  
2 provide any information required for an original license  
3 application under this subtitle. An inactive license holder must  
4 complete the annual renewal process established under this section  
5 until the department [~~commission~~]:

6 (1) designates the license as an active license; or

7 (2) refuses to renew the license.

8 (b) In determining whether to renew an inactive license, the  
9 department [~~commission~~] shall consider:

10 (1) the inactive license holder's:

11 (A) financial stability;

12 (B) ability to conduct live racing;

13 (C) ability to construct and maintain a  
14 racetrack; and

15 (D) other good faith efforts to conduct live  
16 racing; and

17 (2) other necessary factors considered in the issuance  
18 of the original license.

19 (c) The department [~~commission~~] may refuse to renew an  
20 inactive license if, after notice and opportunity for a hearing,  
21 the department [~~commission~~] determines that:

22 (1) renewal of the license is not in the best interests  
23 of the racing industry or the public; or

24 (2) the license holder has failed to make a good faith  
25 effort to conduct live racing.

26 (d) The department [~~commission~~] shall consult with the  
27 advisory board, members of the racing industry, and other key

1 stakeholders in developing the license renewal process under this  
2 section.

3 (e) The commission shall set and the department shall  
4 collect renewal fees in amounts reasonable and necessary to cover  
5 the costs of administering and enforcing this section.

6 (g) A proceeding under this section is a contested case for  
7 purposes of Chapter 2001, Government Code.

8 SECTION 7.55. Section 2025.106, Occupations Code, is  
9 amended to read as follows:

10 Sec. 2025.106. DEPARTMENT [~~COMMISSION~~] REVIEW OF ACTIVE  
11 RACETRACK LICENSE; FEE. (a) The department [~~commission~~] shall  
12 review the ownership and management of an active license issued  
13 under this chapter every five years beginning on the fifth  
14 anniversary of the date of issuance of the license.

15 (b) In performing the review, the department [~~commission~~]  
16 may require the license holder to provide any information that  
17 would be required to be provided in connection with an original  
18 license application under this chapter.

19 (c) The department [~~commission~~] shall charge fees for the  
20 review in amounts set by the commission as sufficient to implement  
21 this section.

22 SECTION 7.56. Section 2025.107(b), Occupations Code, is  
23 amended to read as follows:

24 (b) If the death of any person causes a violation of the  
25 licensing provisions of this subtitle, the department [~~commission~~]  
26 may issue, in accordance with commission rules, a temporary license  
27 for a period not to exceed one year.

SECTION 7.57. Sections 2025.108 and 2025.151, Occupations Code, are amended to read as follows:

Sec. 2025.108. RACETRACK LICENSE ANNUAL FEE. The commission may prescribe a reasonable annual fee to be paid to the department by each racetrack license holder. The fee must be in an amount sufficient to provide that the total amount of fees imposed under this section, the license fees prescribed under Section 2025.001(c), and the renewal fees prescribed under Section 2025.105(e) are sufficient to cover the costs of administering and enforcing this subtitle.

Sec. 2025.151. LIMITATION ON NUMBER OF GREYHOUND RACETRACK LICENSES. The department [~~commission~~] may not issue licenses for more than three greyhound racetracks in this state.

SECTION 7.58. Section 2025.201, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The department [~~commission~~] may refuse to issue a racetrack license or may revoke or suspend a license if, after notice and opportunity for a hearing, the department [~~commission~~] finds that the applicant or license holder, as appropriate:

(1) has been convicted of a violation of this subtitle or a commission rule, or has aided, abetted, or conspired to commit a violation of this subtitle or a commission rule;

(2) has been convicted of or placed on deferred adjudication for a felony or misdemeanor [~~a crime involving moral turpitude, including a conviction for which the punishment received was a suspended sentence, probation, or a nonadjudicated~~]

1 ~~conviction,~~] that is reasonably related to the person's present  
2 fitness to hold a license under this subtitle;

3 (3) ~~[has violated or has caused to be violated this~~  
4 ~~subtitle or a commission rule in a manner that involves moral~~  
5 ~~turpitude, as distinguished from a technical violation of this~~  
6 ~~subtitle or a rule,~~

7 [(4)] is unqualified, by experience or otherwise, to  
8 perform the duties required of a license holder under this  
9 subtitle;

10 (4) [(5)] failed to answer or falsely or incorrectly  
11 answered a question in an application;

12 (5) [(6)] fails to disclose the true ownership or  
13 interest in a horse or greyhound as required by commission rules;

14 (6) [(7)] is indebted to this state for any fee or for  
15 the payment of a penalty imposed by this subtitle or a commission  
16 rule;

17 (7) has developed an incapacity that prevents or could  
18 prevent the applicant or license holder from conducting the  
19 applicant's or license holder's business with reasonable skill and  
20 competence and in a manner that does not endanger public safety;

21 (8) ~~[is not of good moral character or the person's~~  
22 ~~reputation as a peaceable, law-abiding citizen in the community~~  
23 ~~where the person resides is bad,~~

24 [(9)] is not at least the minimum age necessary to  
25 purchase alcoholic beverages in this state;

26 (9) [(10)] ~~is in the habit of using alcoholic beverages~~  
27 ~~to an excess or uses a controlled substance as defined by Chapter~~

1 ~~481, Health and Safety Code, or a dangerous drug as defined in~~  
2 ~~Chapter 483, Health and Safety Code, or is mentally incapacitated,~~  
3           ~~[(11)]~~ may be excluded from an enclosure under this  
4 subtitle;

5           (10) ~~[(12)]~~ has not been a United States citizen  
6 residing in this state for the 10 consecutive years preceding the  
7 filing of the application;

8           (11) ~~[(13)]~~ has improperly used a credential,  
9 including a license certificate or identification card, issued  
10 under this subtitle;

11           (12) ~~[(14)]~~ resides with a person whose license was  
12 revoked for cause during the 12 months preceding the date of the  
13 present application;

14           (13) ~~[(15)] has failed or refused to furnish a true~~  
15 ~~copy of the application to the commission's district office in the~~  
16 ~~district in which the premises for which the license is sought are~~  
17 ~~located,~~

18           ~~[(16)]~~ is engaged or has engaged in activities or  
19 practices the department ~~[commission]~~ determines are detrimental  
20 to the best interests of the public and the sport of horse racing or  
21 greyhound racing; or

22           (14) ~~[(17)]~~ fails to fully disclose the true owners of  
23 all interests, beneficial or otherwise, in a proposed racetrack.

24           (c) The department ~~[commission]~~ may refuse to issue a  
25 license or may suspend or revoke a license of a license holder under  
26 this subchapter who knowingly or intentionally allows access to an  
27 enclosure where horse races or greyhound races are conducted to a

1 person:

2 (1) who has engaged in bookmaking, toutting, or illegal  
3 wagering;

4 (2) whose income is from illegal activities or  
5 enterprises; or

6 (3) who has been convicted of a violation of this  
7 subtitle.

8 (d) A proceeding under this section is a contested case for  
9 purposes of Chapter 2001, Government Code.

10 SECTION 7.59. Section 2025.202(b), Occupations Code, is  
11 amended to read as follows:

12 (b) Notwithstanding the requirements of Section 2033.151,  
13 if, after notice and opportunity for a hearing as provided by  
14 Section 2033.152, the commission finds that a racetrack license  
15 holder or a person employed by the racetrack has violated this  
16 subtitle or a commission rule, or if the department [~~commission~~]  
17 finds during a review or renewal that the racetrack is ineligible  
18 for a license under this chapter, the commission may:

19 (1) revoke, suspend, or refuse to renew the racetrack  
20 license;

21 (2) impose an administrative penalty as provided under  
22 Section 2033.051; or

23 (3) take any other action as provided by commission  
24 rule.

25 SECTION 7.60. Section 2025.203(a), Occupations Code, is  
26 amended to read as follows:

27 (a) The executive director [~~commission~~] may summarily

1 suspend a racetrack license if the executive director [~~commission~~]  
2 determines that a racetrack at which races or pari-mutuel wagering  
3 are conducted under the license is being operated in a manner that  
4 constitutes an immediate threat to the health, safety, or welfare  
5 of the racing participants or the patrons.

6 SECTION 7.61. Section 2025.204(d), Occupations Code, is  
7 amended to read as follows:

8 (d) At the hearing, the department [~~commission~~] has the  
9 burden of proof and must present evidence in support of the order.  
10 The license holder requesting the hearing may cross-examine  
11 witnesses and show cause why the order should not be affirmed.

12 SECTION 7.62. Sections 2025.205, 2025.251, 2025.253,  
13 2025.254, and 2025.255, Occupations Code, are amended to read as  
14 follows:

15 Sec. 2025.205. SUMMARY SUSPENSION FINAL ORDER. (a) After  
16 the hearing on the suspension of a racetrack license, the  
17 commission [~~executive director~~] shall affirm, modify, or set aside,  
18 wholly or partly, the summary suspension order. An order affirming  
19 or modifying the summary suspension order is final for purposes of  
20 enforcement and appeal.

21 (b) A final order under this section may be appealed in the  
22 manner provided by Subchapter G, Chapter 2001, Government Code.

23 Sec. 2025.251. OCCUPATIONAL LICENSE REQUIRED. (a) Except  
24 as provided by this section, a person, other than as a spectator or  
25 as a person placing a wager, may not participate in racing with  
26 pari-mutuel wagering without first obtaining a license from the  
27 department [~~commission~~]. A person may not engage in any occupation

1 for which commission rules require a license under this subtitle  
2 without first obtaining a license from the department [~~commission~~].

3 (b) The commission by rule shall categorize the occupations  
4 of racetrack employees and determine the occupations that afford  
5 the employee an opportunity to influence racing with pari-mutuel  
6 wagering. The rules must require an employee to be licensed under  
7 this subtitle if the employee:

8 (1) works in an occupation determined by the  
9 department [~~commission~~] to afford the employee an opportunity to  
10 influence racing with pari-mutuel wagering; or

11 (2) will likely have significant access to the  
12 backside of a racetrack or to restricted areas of the frontside of a  
13 racetrack.

14 (c) The commission by rule may require the following persons  
15 to hold an occupational license under this subtitle:

16 (1) an adoption program employee;

17 (2) an announcer;

18 (3) an apprentice jockey;

19 (4) an assistant farrier, plater, or blacksmith;

20 (5) an assistant starter;

21 (6) an assistant trainer;

22 (7) an assistant trainer/owner;

23 (8) an association assistant management employee;

24 (9) an association management employee;

25 (10) an association officer or director;

26 (11) an association staff employee;

27 (12) an association employee other than an employee

1 described in this subsection;  
2           (13) an association veterinarian;  
3           (14) an authorized agent;  
4           (15) a chaplain;  
5           (16) a chaplain assistant;  
6           (17) an equine dental provider;  
7           (18) an exercise rider;  
8           (19) a farrier, plater, or blacksmith;  
9           (20) a groom/exercise rider;  
10          (21) a groom/hot walker;  
11          (22) a groom/pony person;  
12          (23) a jockey;  
13          (24) a jockey agent;  
14          (25) a kennel helper;  
15          (26) a kennel owner;  
16          (27) a kennel owner/owner;  
17          (28) a kennel owner/owner/trainer;  
18          (29) a kennel owner/trainer;  
19          (30) a kennel registration employee;  
20          (31) a lead-out;  
21          (32) a maintenance employee;  
22          (33) a medical employee;  
23          (34) miscellaneous racetrack employees;  
24          (35) a multiple owner/stable/farm registration  
25 employee;  
26          (36) a mutuel clerk;  
27          (37) a mutuel employee other than a clerk;

- 1           (38) an owner;
- 2           (39) an owner-trainer;
- 3           (40) a pony person;
- 4           (41) a racing industry representative;
- 5           (42) a racing industry employee;
- 6           (43) a racing official;
- 7           (44) a security officer;
- 8           (45) a stable foreman;
- 9           (46) a tattooer;
- 10          (47) a test technician;
- 11          (48) a trainer;
- 12          (49) a training facility employee;
- 13          (50) a training facility general manager;
- 14          (51) a valet;
- 15          (52) a vendor concessionaire;
- 16          (53) a vendor concessionaire employee;
- 17          (54) a vendor-totalisator company;
- 18          (55) a vendor-totalisator employee;
- 19          (56) a veterinarian; and
- 20          (57) a veterinarian assistant.

21           Sec. 2025.253. EXAMINATION NOTIFICATION.   (a)   If an  
22 examination is required for the issuance of a license under this  
23 subchapter, the department [~~commission~~] shall notify each examinee  
24 of the results of the examination not later than the 30th day after  
25 the date the licensing examination is administered under this  
26 subtitle.

27           (b) If requested in writing by a person who fails a

1 licensing examination administered under this subtitle, the  
2 department [~~commission~~] shall furnish the person with an analysis  
3 of the person's performance on the examination.

4       Sec. 2025.254. ISSUANCE OF LICENSE.       The department  
5 [~~commission~~] shall issue a license to a qualified person on  
6 application and payment of the license fee.

7       Sec. 2025.255. ISSUANCE OF IDENTIFICATION CARD.       The  
8 department [~~commission~~] shall issue a license certificate under  
9 this subchapter in the form of an identification card with a  
10 photograph and other information as prescribed by the department  
11 [~~commission~~].

12       SECTION 7.63. Section 2025.256(c), Occupations Code, is  
13 amended to read as follows:

14       (c) In setting the fee schedule under Subsection (a), the  
15 commission shall include the cost of criminal history record  
16 information obtained under Section 2023.058.       The department  
17 [~~commission~~] may determine the best method for recovering this cost  
18 and complying with this section, including collecting the costs  
19 over an extended period.

20       SECTION 7.64. Section 2025.258(a), Occupations Code, is  
21 amended to read as follows:

22       (a) The department [~~commission~~] shall obtain criminal  
23 history record information on each applicant renewing an  
24 occupational license under this subchapter.

25       SECTION 7.65. Section 2025.259, Occupations Code, is  
26 amended to read as follows:

27       Sec. 2025.259. LICENSE VALID THROUGHOUT STATE. A license

1 issued under this subchapter is valid, as determined by the  
2 department [~~commission~~], at all race meetings conducted in this  
3 state.

4 SECTION 7.66. Section 2025.260(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Pending investigation of an applicant's qualifications  
7 to receive an original or renewal license, the department  
8 [~~commission~~] may issue a temporary license to an applicant under  
9 this subchapter whose application appears to comply with the  
10 requirements of law and who has paid the necessary fee.

11 SECTION 7.67. Sections 2025.261 and 2025.262, Occupations  
12 Code, are amended to read as follows:

13 Sec. 2025.261. RECIPROCAL LICENSES; OUT-OF-STATE  
14 APPLICANTS. (a) The executive director [~~commission~~] may waive any  
15 prerequisite to obtaining a license for an applicant, including any  
16 requirement to submit a set of fingerprints, after reviewing the  
17 applicant's credentials and determining that the applicant holds a  
18 license from another state that has license requirements  
19 substantially equivalent to the requirements of this state.

20 (b) The executive director [~~commission~~] may waive any  
21 prerequisite to obtaining a license, including any requirement to  
22 submit a set of fingerprints, for an applicant who holds a license  
23 from another state with which this state has a reciprocity  
24 agreement. The department [~~commission~~] may enter into agreements  
25 with other states to allow for licensing by reciprocity.

26 Sec. 2025.262. GROUNDS FOR DENIAL, REVOCATION, AND  
27 SUSPENSION OF OCCUPATIONAL LICENSE. (a) The department

1 ~~[commission]~~ may refuse to issue any original or renewal license  
2 under this subchapter or may revoke or suspend the license if, after  
3 notice and opportunity for a hearing, the department ~~[commission]~~  
4 finds that the applicant or license holder, as appropriate:

5           (1) has been convicted of a violation of this subtitle  
6 or a commission rule or has aided, abetted, or conspired to commit a  
7 violation of this subtitle or a commission rule;

8           (2) has been convicted of or placed on deferred  
9 adjudication for a felony or misdemeanor ~~[a crime involving moral~~  
10 ~~turpitude]~~ that is reasonably related to the person's present  
11 fitness to hold a license under this subtitle;

12           (3) ~~[has violated or has caused to be violated this~~  
13 ~~subtitle or a commission rule in a manner that involves moral~~  
14 ~~turpitude, as distinguished from a technical violation of this~~  
15 ~~subtitle or a rule,~~

16           ~~[(4)]~~ is unqualified, by experience or otherwise, to  
17 perform the duties required of a license holder under this  
18 subtitle;

19           (4) ~~[(5)]~~ failed to answer or has falsely or  
20 incorrectly answered a question in an original or renewal  
21 application;

22           (5) ~~[(6)]~~ fails to disclose the true ownership or  
23 interest in a horse or greyhound as required by commission rules;

24           (6) ~~[(7)]~~ is indebted to this state for any fee or for  
25 the payment of a penalty imposed by this subtitle or a commission  
26 rule;

27           (7) has developed an incapacity that prevents or could

1 prevent the applicant or license holder from conducting the  
2 applicant's or license holder's business with reasonable skill and  
3 competence and in a manner that does not endanger public safety;

4           (8) ~~[is not of good moral character or the person's~~  
5 ~~reputation as a peaceable, law-abiding citizen in the community~~  
6 ~~where the person resides is bad,~~

7           ~~[(9) is in the habit of using alcoholic beverages to an~~  
8 ~~excess or uses a controlled substance as defined in Chapter 481,~~  
9 ~~Health and Safety Code, or a dangerous drug as defined in Chapter~~  
10 ~~483, Health and Safety Code, or is mentally incapacitated,~~

11           ~~[(10)]~~ may be excluded from an enclosure under this  
12 subtitle;

13           (9) ~~[(11)]~~ has improperly used a temporary pass,  
14 license certificate, credential, or identification card issued  
15 under this subtitle;

16           (10) ~~[(12)]~~ resides with a person whose license was  
17 revoked for cause during the 12 months preceding the date of the  
18 present application;

19           (11) ~~[(13)]~~ has failed or refused to furnish a true  
20 copy of the application to the department's ~~[commission's]~~ district  
21 office in the district in which the premises for which the license  
22 is sought are located; or

23           (12) ~~[(14)]~~ is engaged or has engaged in activities or  
24 practices that are detrimental to the best interests of the public  
25 and the sport of horse racing or greyhound racing.

26           (b) A proceeding under this section is a contested case for  
27 purposes of Chapter 2001, Government Code.

1       SECTION 7.68. Section 2026.003, Occupations Code, is  
2 amended to read as follows:

3       Sec. 2026.003. FINANCIAL DISCLOSURE. (a) The commission  
4 by rule shall require that each racetrack association that holds a  
5 license for a class 1 racetrack, class 2 racetrack, or greyhound  
6 racetrack annually file with the department [~~commission~~] a detailed  
7 financial statement that:

8           (1) contains the names and addresses of all  
9 stockholders, members, and owners of any interest in the racetrack;

10          (2) indicates compliance during the filing period with  
11 Section 2025.101; and

12          (3) includes any other information required by the  
13 department [~~commission~~].

14       (b) Each transaction that involves an acquisition or a  
15 transfer of a pecuniary interest in the racetrack association must  
16 receive prior approval from the department [~~commission~~]. A  
17 transaction that changes the ownership of the racetrack association  
18 requires submission of updated information of the type required to  
19 be disclosed under Section 2025.052 and payment of a fee to recover  
20 the costs of the criminal background check.

21       SECTION 7.69. Section 2026.004(b), Occupations Code, is  
22 amended to read as follows:

23       (b) If the racetrack or enclosure designated in the license  
24 becomes unsuitable for racing because of fire, flood, or other  
25 catastrophe, the affected racetrack association, with the prior  
26 approval of the executive director [~~commission~~], may conduct a race  
27 meeting or any remaining portion of a meeting temporarily at any

1 other racetrack if the other racetrack license holder:

2 (1) is licensed by the department [~~commission~~] to  
3 conduct the same type of racing as may be conducted by the affected  
4 racetrack association; and

5 (2) consents to the usage.

6 SECTION 7.70. Sections 2026.005 and 2026.006, Occupations  
7 Code, are amended to read as follows:

8 Sec. 2026.005. CHANGE OF RACING LOCATION. On request of a  
9 racetrack association, the department [~~commission~~] shall amend a  
10 racetrack license to change the location of the racetrack if the  
11 department [~~commission~~] determines that:

12 (1) the conduct of race meetings at the proposed new  
13 location will be in the public interest;

14 (2) there was not a competing applicant for the  
15 original license; and

16 (3) the racetrack association's desire to change  
17 location is not the result of a subterfuge in the original licensing  
18 proceeding.

19 Sec. 2026.006. LEASE OF RACETRACK PREMISES. (a) The  
20 commission by rule may provide for the department to authorize a  
21 racetrack association, as lessee, to contract for the lease of a  
22 racetrack and the surrounding structures.

23 (b) The department [~~commission~~] may not approve a lease if:

24 (1) the lease appears to be a subterfuge to evade  
25 compliance with Section 2025.101 or 2025.201;

26 (2) the racetrack and surrounding structures do not  
27 conform to the rules adopted under this subtitle; or

1 (3) the lessee, prospective lessee, or lessor is  
2 disqualified from holding a racetrack license.

3 (c) Each lessor and lessee under this section must comply  
4 with the disclosure requirements of Section 2025.052(a)(1). The  
5 department [~~commission~~] may not approve a lease if the lessor and  
6 lessee do not provide the required information.

7 SECTION 7.71. Section 2026.007(e), Occupations Code, is  
8 amended to read as follows:

9 (e) The commission shall adopt rules implementing this  
10 section, including rules:

11 (1) requiring the report and correction of:

12 (A) an inappropriate condition on the premises of  
13 a racetrack, including a failure to properly maintain the premises,  
14 that interferes with the administration of this subtitle; and

15 (B) a condition on the premises that makes the  
16 premises unsafe for a race participant, patron, or animal; and

17 (2) determining the methods and manner by which the  
18 executive director may determine and remedy inappropriate or unsafe  
19 conditions on the premises, including the methods and manner in  
20 which the department [~~executive director~~] may conduct inspections  
21 of the premises and remedy emergency situations.

22 SECTION 7.72. Section 2026.008, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2026.008. SUPERVISION OF CONSTRUCTION, RENOVATION,  
25 AND MAINTENANCE; ENFORCEMENT. (a) The commission by rule shall  
26 adopt a method of supervising and approving the construction,  
27 renovation, or maintenance of any building or improvement on the

1 premises of a racetrack.

2 (b) The commission shall adopt rules relating to:

3 (1) the approval of plans and specifications;

4 (2) the contents of plans and specifications;

5 (3) the maintenance of records to ensure compliance  
6 with approved plans and specifications;

7 (4) the content and filing of construction progress  
8 reports by the racetrack association to the department  
9 [~~commission~~];

10 (5) the inspection by the department [~~commission~~] or  
11 others;

12 (6) the method for making a change or amendment to an  
13 approved plan or specification; and

14 (7) any other method of supervision or oversight  
15 necessary.

16 (c) If the department [~~commission~~] has grounds to believe  
17 that a racetrack association has failed to comply with the  
18 requirements of this section, a representative of the racetrack  
19 association shall appear before the commission or department to  
20 consider the issue of compliance with rules adopted under this  
21 section.

22 (d) Before a building or improvement may be used by a  
23 racetrack association, the department [~~commission~~] shall determine  
24 whether:

25 (1) the construction, renovation, or maintenance of  
26 the building or improvement was completed in accordance with the  
27 approved plans and specifications; and

1           (2) other [~~commission~~] requirements under this  
2 subtitle were met.

3           (e) If the department [~~commission~~] determines that the  
4 racetrack association failed to comply with a requirement of this  
5 section or a rule adopted under this section, the department  
6 [~~commission~~] shall initiate an enforcement action against the  
7 racetrack association. In addition to any other authorized  
8 enforcement action, the department [~~commission~~] may rescind any  
9 live or simulcast race date of any racetrack association that has  
10 failed to comply with the requirements of this section.

11           SECTION 7.73. Section 2026.013(b), Occupations Code, is  
12 amended to read as follows:

13           (b) The department [~~commission~~] may impose disciplinary  
14 action against a racetrack for violations of this subtitle and  
15 commission rules by the racetrack's employees as provided by  
16 Section 2025.202.

17           SECTION 7.74. Section 2026.051, Occupations Code, is  
18 amended to read as follows:

19           Sec. 2026.051. COMMISSION RULES REGARDING EXCLUSION OR  
20 EJECTION. The commission shall adopt rules providing for the  
21 exclusion or ejection from an enclosure where horse or greyhound  
22 races are conducted, or from specified portions of an enclosure, of  
23 a person:

24           (1) who has engaged in bookmaking, touting, or illegal  
25 wagering;

26           (2) whose income is from illegal activities or  
27 enterprises;

1 (3) who has been convicted of a violation of this  
2 subtitle;

3 (4) who has been convicted of theft;

4 (5) who has been convicted under the penal law of  
5 another jurisdiction for committing an act that would have  
6 constituted a violation of any rule described in this section;

7 (6) who has committed a corrupt or fraudulent act in  
8 connection with horse or greyhound racing or pari-mutuel wagering  
9 or who has committed any act tending or intended to corrupt horse or  
10 greyhound racing or pari-mutuel wagering;

11 (7) who is under suspension or has been excluded or  
12 ejected from a racetrack by the department [~~commission~~] or a  
13 steward in this state or by a corresponding authority in another  
14 state because of corrupt or fraudulent practices or other acts  
15 detrimental to racing;

16 (8) who has submitted a forged pari-mutuel ticket or  
17 has altered or forged a pari-mutuel ticket for cashing or who has  
18 cashed or caused to be cashed an altered, raised, or forged  
19 pari-mutuel ticket;

20 (9) [~~who has been convicted of committing a lewd or~~  
21 ~~lascivious act or other crime involving moral turpitude,~~

22 [~~(10)~~] who is guilty of [~~boisterous or~~] disorderly  
23 conduct while inside an enclosure;

24 (10) [~~(11)~~] who is an agent [~~or habitual associate~~] of  
25 a person excludable under this section; or

26 (11) [~~(12)~~] who has been convicted of a felony.

27 SECTION 7.75. Sections 2026.052(a) and (b), Occupations

1 Code, are amended to read as follows:

2 (a) A person who is excluded or ejected from an enclosure  
3 under a commission rule may apply to the department [~~commission~~]  
4 for a hearing on the question of the applicability of the rule to  
5 that person.

6 (b) A proceeding [~~An application for a hearing~~] under this  
7 section is [~~Subsection (a) constitutes~~] a contested case for  
8 purposes of [~~under~~] Chapter 2001, Government Code. If, after a  
9 hearing as provided under Subchapter C of that chapter, the  
10 commission determines that the exclusion or ejection was proper:

11 (1) the commission shall issue an order to that effect  
12 [~~and enter the order in the commission's minutes~~]; and

13 (2) the person shall continue to be excluded from each  
14 racetrack association's enclosure.

15 SECTION 7.76. Section 2026.102(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A class 1 racetrack is a racetrack on which live racing  
18 is conducted for a number of days in a calendar year, as determined  
19 by the department [~~commission~~] under Subchapter A, Chapter 2029.

20 SECTION 7.77. Section 2026.103, Occupations Code, is  
21 amended to read as follows:

22 Sec. 2026.103. CLASS 2 RACETRACK. (a) A class 2 racetrack  
23 is a racetrack on which live racing is conducted for a number of  
24 days, as determined by the department [~~commission~~] under Subchapter  
25 A, Chapter 2029.

26 (b) A class 2 racetrack is entitled to conduct 60 days of  
27 live racing in a calendar year. A racetrack association may request

1 additional or fewer days of live racing. If, after receipt of a  
2 request from a racetrack association, the department ~~[commission]~~  
3 determines additional or fewer days to be economically feasible and  
4 in the best interest of this state and the racing industry, the  
5 department ~~[commission]~~ shall grant the request.

6 (c) The department ~~[commission]~~ may permit a racetrack  
7 association that holds a class 2 racetrack license and that is  
8 located in a national historic district to conduct horse races for  
9 more than 60 days in a calendar year.

10 SECTION 7.78. Section 2026.105(b), Occupations Code, is  
11 amended to read as follows:

12 (b) A racetrack association that holds a class 4 racetrack  
13 license may conduct live races for a number of days not to exceed  
14 five days in a calendar year on dates selected by the racetrack  
15 association and approved by the department ~~[commission]~~.

16 SECTION 7.79. Section 2026.106, Occupations Code, is  
17 amended to read as follows:

18 Sec. 2026.106. WAIVER OR DEFERRAL OF CERTAIN STANDARDS FOR  
19 CLASS 4 RACETRACK. (a) In considering an application for a class 4  
20 racetrack license, except as provided by Subsection (b), the  
21 executive director ~~[commission]~~ may waive or defer compliance with  
22 the department's ~~[commission's]~~ standards regarding the physical  
23 facilities or operations of a horse racetrack.

24 (b) The executive director ~~[commission]~~ may not waive or  
25 defer compliance with standards that relate to the testing of  
26 horses or license holders for the presence of a prohibited  
27 substance, including a prohibited drug or chemical.

1 (c) If the executive director [~~commission~~] defers  
2 compliance, the department [~~commission~~] shall, when granting the  
3 application, establish a schedule under which the license holder  
4 must comply with the standards.

5 SECTION 7.80. Section 2026.107(b), Occupations Code, is  
6 amended to read as follows:

7 (b) The number of race dates allowed under this subchapter  
8 relates only to live race dates. A racetrack may present simulcast  
9 races on other dates as approved by the department [~~commission~~].

10 SECTION 7.81. Sections 2026.151 and 2026.152, Occupations  
11 Code, are amended to read as follows:

12 Sec. 2026.151. DEPARTMENT [~~COMMISSION~~] APPROVAL REQUIRED.

13 (a) All concession, management, and totalisator contracts  
14 submitted by an applicant under Section 2025.054 must have the  
15 prior approval of the department [~~commission~~].

16 (b) The department [~~commission~~] shall refuse to approve a  
17 concession or management contract if, in the sole discretion of the  
18 department [~~commission~~], the background checks conducted under  
19 Section 2025.056 reveal anything that might be detrimental to the  
20 public interest or the racing industry.

21 Sec. 2026.152. DEPARTMENT [~~COMMISSION~~] REVIEW OF SECURITY  
22 PLANS AND CERTAIN CONTRACTS. (a) On receipt of a plan for the  
23 security of a racetrack, or a copy of a concession, management, or  
24 totalisator contract for review under Section 2026.151, the  
25 department [~~commission~~] shall review the security plan or contract  
26 [~~in an executive session~~]. Documents submitted by an applicant to  
27 the department [~~commission~~] under this section or Section 2025.052

1 or 2025.054 are subject to discovery in a suit brought under this  
2 subtitle but are not public records and are not subject to Chapter  
3 552, Government Code.

4 (b) In reviewing and approving contracts under Subsection  
5 (a), the department [~~commission~~] shall attempt to ensure the  
6 involvement of minority-owned businesses whenever possible.

7 SECTION 7.82. Section 2026.153(b), Occupations Code, is  
8 amended to read as follows:

9 (b) The department [~~commission~~] may not approve a  
10 management contract to operate or manage a racetrack owned by a  
11 governmental entity unless the racetrack license holder is an owner  
12 of the entity that proposes to manage the racetrack.

13 SECTION 7.83. Section 2027.001(b), Occupations Code, is  
14 amended to read as follows:

15 (b) Rules adopted under this subtitle must include rules to:

16 (1) regulate wagering by a person licensed under this  
17 subtitle;

18 (2) prohibit wagering by a department [~~commission~~]  
19 employee;

20 (3) prohibit a racetrack association from accepting a  
21 wager made by telephone; and

22 (4) prohibit a racetrack association from accepting a  
23 wager made on credit.

24 SECTION 7.84. Sections 2027.003 and 2027.004, Occupations  
25 Code, are amended to read as follows:

26 Sec. 2027.003. WAGERING COMPUTATION EQUIPMENT. (a)  
27 Wagering authorized under this chapter may be calculated only by

1 state-of-the-art computational equipment approved by the  
2 department [~~commission~~].

3 (b) The department [~~commission~~] may not require the use of a  
4 particular make of equipment.

5 Sec. 2027.004. AUTOMATED TELLER MACHINES: RULES,  
6 LIMITATIONS, AND FEES. (a) The commission shall:

7 (1) adopt rules providing for the use of automated  
8 teller machines in an enclosure; and

9 (2) direct the department to limit the use of  
10 automated teller machines by allowing a person access only to the  
11 person's checking account at a bank or other financial institution.

12 (b) A racetrack association that allows an automated teller  
13 machine in an enclosure as provided by Subsection (a) shall collect  
14 a fee of \$1 for each transaction authorized under that subsection  
15 and forward the fee to the department [~~commission~~].

16 (c) The commission shall:

17 (1) adopt rules providing for collection, reporting,  
18 and auditing of the transaction fee authorized under Subsection  
19 (b); and

20 (2) direct the department to deposit the fee collected  
21 under Subsection (b) to the credit of the general revenue fund.

22 SECTION 7.85. Section 2027.006(d), Occupations Code, is  
23 amended to read as follows:

24 (d) If the racetrack association refuses to pay a claimant  
25 who has established satisfactorily a right to distribution from a  
26 pari-mutuel pool, the claimant may appeal to the department  
27 [~~commission~~] under procedures prescribed by commission rule.

1           SECTION 7.86. Section 2027.052(a), Occupations Code, is  
2 amended to read as follows:

3           (a) This subtitle may not be construed to allow wagering in  
4 this state on simulcast races at any location other than a racetrack  
5 licensed under this subtitle that has been granted live race dates  
6 by the department [~~commission~~].

7           SECTION 7.87. The heading to Section 2027.053, Occupations  
8 Code, is amended to read as follows:

9           Sec. 2027.053. DEPARTMENT [~~COMMISSION~~] APPROVAL REQUIRED  
10 FOR PARI-MUTUEL POOL INCLUSION.

11          SECTION 7.88. Section 2027.053(a), Occupations Code, is  
12 amended to read as follows:

13          (a) With department [~~commission~~] approval:

14               (1) wagers accepted on a simulcast race by any  
15 out-of-state receiving location may be included in the pari-mutuel  
16 pool for the race at the sending in-state racetrack association;  
17 and

18               (2) wagers accepted by an in-state racetrack  
19 association on a race simulcast from out-of-state may be included  
20 in the pari-mutuel pools for the race at the out-of-state sending  
21 track.

22          SECTION 7.89. Section 2027.054(c), Occupations Code, is  
23 amended to read as follows:

24          (c) The department [~~commission~~] may not approve wagering on  
25 an interstate simulcast race unless the receiving location consents  
26 to wagering on interstate simulcast races at all other receiving  
27 locations in this state.

1       SECTION 7.90. The heading to Subchapter A, Chapter 2028,  
2 Occupations Code, is amended to read as follows:

3       SUBCHAPTER A. [~~COMMISSION~~] OVERSIGHT OF PARI-MUTUEL RACING FUNDS

4       SECTION 7.91. Section 2028.001(a), Occupations Code, is  
5 amended to read as follows:

6       (a) For any organization that receives funds generated by  
7 live or simulcast pari-mutuel racing, the commission shall adopt  
8 rules specifying the reporting, monitoring, and auditing  
9 requirements or other appropriate performance measures for:

10           (1) any funds distributed to or used by the  
11 organization; and

12           (2) any function or service provided by the  
13 expenditure of the funds described by Subdivision (1).

14       SECTION 7.92. Sections 2028.002 and 2028.003, Occupations  
15 Code, are amended to read as follows:

16       Sec. 2028.002. INDEPENDENT AUDIT REPORT; RECORDS REVIEW.

17 (a) An organization that receives funds generated by live or  
18 simulcast pari-mutuel racing shall annually file with the  
19 department [~~commission~~] a copy of an audit report prepared by an  
20 independent certified public accountant. The audit must include a  
21 verification of any performance report sent to or required by the  
22 department [~~commission~~].

23       (b) The department [~~commission~~] may review any record or  
24 book of an organization that submits an independent audit to the  
25 department [~~commission~~] as the department [~~commission~~] determines  
26 necessary to confirm or further investigate the findings of an  
27 audit or report.

1           Sec. 2028.003. SUSPENSION AND WITHHOLDING OF FUNDS. The  
2   commission ~~[by rule]~~ may adopt rules authorizing the department to  
3   suspend or withhold funds from an organization:

4               (1) that the department ~~[commission]~~ determines has  
5   failed to comply with the requirements or performance measures  
6   adopted under Section 2028.001; or

7               (2) for which material questions on the use of funds by  
8   the organization are raised following an independent audit or other  
9   report to the department ~~[commission]~~.

10          SECTION 7.93. Section 2028.102(e), Occupations Code, is  
11   amended to read as follows:

12          (e) A horse racetrack association may pay a portion of the  
13   revenue set aside under this section to an organization recognized  
14   under Section 2023.051, as provided by a contract approved by the  
15   department ~~[commission]~~.

16          SECTION 7.94. Sections 2028.103(a) and (a-1), Occupations  
17   Code, are amended to read as follows:

18          (a) A horse racetrack association shall set aside for the  
19   Texas-bred program and pay to the department ~~[commission]~~ an amount  
20   equal to one percent of a live multiple two wagering pool and a live  
21   multiple three wagering pool. From the set-aside amounts:

22               (1) two percent shall be set aside for purposes of  
23   Subchapter F, Chapter 88, Education Code; and

24               (2) the remaining amount shall be allocated as  
25   follows:

26                   (A) 10 percent may be used by the appropriate  
27   state horse breed registry for administration; and

1 (B) the remainder shall be used for awards.

2 (a-1) The department [~~commission~~] shall deposit money paid  
3 to the department [~~commission~~] under Subsection (a) into the  
4 Texas-bred incentive fund established under Section 2028.301. The  
5 department [~~commission~~] shall distribute the money collected under  
6 this section and deposited into the fund to the appropriate state  
7 horse breed registries for the Texas-bred program in accordance  
8 with rules adopted under Subsection (c).

9 SECTION 7.95. Sections 2028.105(b), (d), and (d-1),  
10 Occupations Code, are amended to read as follows:

11 (b) A horse racetrack association shall pay to the  
12 department [~~commission~~] for use by the appropriate state horse  
13 breed registry, subject to commission rules, 10 percent of the  
14 total breakage from a live pari-mutuel pool or a simulcast  
15 pari-mutuel pool. The appropriate state horse breed registries are  
16 as follows:

17 (1) the Texas Thoroughbred [~~Breeders~~] Association for  
18 Thoroughbred horses;

19 (2) the Texas Quarter Horse Association for quarter  
20 horses;

21 (3) the Texas Appaloosa Horse Club for Appaloosa  
22 horses;

23 (4) the Texas Arabian Breeders Association for Arabian  
24 horses; and

25 (5) the Texas Paint Horse Breeders Association for  
26 paint horses.

27 (d) The horse racetrack association shall pay to the

1 department [~~commission~~] for deposit into the Texas-bred incentive  
2 fund established under Section 2028.301 and distribution to the  
3 appropriate state horse breed registry the remaining 80 percent of  
4 the total breakage to be allocated as follows:

5 (1) 40 percent to the owners of the accredited  
6 Texas-bred horses that finish first, second, or third;

7 (2) 40 percent to the breeders of accredited  
8 Texas-bred horses that finish first, second, or third; and

9 (3) 20 percent to the owner of the stallion standing in  
10 this state at the time of conception whose Texas-bred get finish  
11 first, second, or third.

12 (d-1) The department [~~commission~~] shall deposit the  
13 portions of total breakage paid to the department [~~commission~~]  
14 under Subsections (b) and (d) into the Texas-bred incentive fund  
15 established under Section 2028.301. The department [~~commission~~]  
16 shall distribute the money collected under this section and  
17 deposited into the fund to the appropriate state horse breed  
18 registries in accordance with this section and with rules adopted  
19 by the ~~commission~~ under Section 2028.103.

20 SECTION 7.96. Section 2028.154(a), Occupations Code, is  
21 amended to read as follows:

22 (a) A greyhound racetrack association shall pay 50 percent  
23 of the breakage to the appropriate state greyhound breed  
24 registry. Of that breakage percentage:

25 (1) 25 percent is to be used in stakes races; and

26 (2) 25 percent of that total breakage from a live  
27 pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to

1 the department [~~commission~~] for deposit into the Texas-bred  
2 incentive fund established under Section 2028.301. The department  
3 [~~commission~~] shall distribute the money collected under this  
4 section and deposited into the fund to the state greyhound breed  
5 registry for use in accordance with this section and commission  
6 rules.

7 SECTION 7.97. Section 2028.201, Occupations Code, is  
8 amended to read as follows:

9 Sec. 2028.201. RULES. (a) The commission shall adopt  
10 rules relating to this subchapter and the oversight of the amounts  
11 allocated under Sections 2028.202(b)(1), (2), and (3)  
12 [~~2028.202(b)~~] and (c).

13 (b) The commission shall adopt rules relating to the  
14 oversight of the amounts allocated under Section 2028.202(b)(4).

15 SECTION 7.98. Sections 2028.202(a), (a-1), and (b),  
16 Occupations Code, are amended to read as follows:

17 (a) A racetrack association shall distribute from the total  
18 amount deducted as provided by Sections 2028.101 and 2028.152 from  
19 each simulcast pari-mutuel pool and each simulcast cross-species  
20 pari-mutuel pool the following shares:

21 (1) an amount equal to one percent of each simulcast  
22 pari-mutuel pool to the department [~~commission~~] for the  
23 administration of this subtitle;

24 (2) an amount equal to 1.25 percent of each simulcast  
25 cross-species pari-mutuel pool to the department [~~commission~~] for  
26 the administration of this subtitle;

27 (3) for a horse racetrack association, an amount equal

1 to one percent of a multiple two wagering pool or multiple three  
2 wagering pool as the amount set aside for the Texas-bred program to  
3 be used as provided by Section 2028.103;

4 (4) for a greyhound racetrack association, an amount  
5 equal to one percent of a multiple two wagering pool or a multiple  
6 three wagering pool as the amount set aside for the Texas-bred  
7 program for greyhound races, to be distributed and used in  
8 accordance with commission rules adopted to promote greyhound  
9 breeding in this state; and

10 (5) the remainder as the amount set aside for purses,  
11 expenses, the sending track, and the receiving location under a  
12 contract approved by the department [~~commission~~] between the  
13 sending track and the receiving location.

14 (a-1) A racetrack association shall pay to the department  
15 [~~commission~~] for deposit into the Texas-bred incentive fund  
16 established under Section 2028.301 the shares to be distributed  
17 under Subsections (a)(3) and (a)(4) for the Texas-bred program.  
18 The department [~~commission~~] shall distribute the money collected  
19 under this section and deposited into the fund to the appropriate  
20 state breed registries for use under the Texas-bred program.

21 (b) From the total amount deducted under Subsection (a), a  
22 greyhound racetrack association that receives an interstate  
23 cross-species simulcast signal shall distribute the following  
24 amounts from each pari-mutuel pool wagered on the signal at the  
25 racetrack:

26 (1) a fee of 1.5 percent to be paid to the racetrack in  
27 this state sending the signal;

1           (2) a purse in the amount of 0.75 percent to be paid to  
2 the official state horse breed registry for Thoroughbred horses for  
3 use as purses at racetracks in this state;

4           (3) a purse in the amount of 0.75 percent to be paid to  
5 the official state horse breed registry for quarter horses for use  
6 as purses at racetracks in this state; and

7           (4) a purse of 4.5 percent to be deposited in the horse  
8 industry escrow account as [~~escrowed with the commission in the~~  
9 ~~manner~~] provided by Section 2028.204.

10         SECTION 7.99. Sections 2028.203 and 2028.204, Occupations  
11 Code, are amended to read as follows:

12         Sec. 2028.203. REIMBURSEMENT FOR SIMULCAST SIGNAL COST. If  
13 a racetrack association purchases an interstate simulcast signal  
14 and the signal cost exceeds five percent of the pari-mutuel pool,  
15 the department [~~commission~~], from the horse industry escrow  
16 [~~escrowed~~] account established under Section 2028.204  
17 [~~2028.202(b)(4)~~], shall reimburse the racetrack association an  
18 amount equal to one-half of the signal cost that exceeds five  
19 percent of the pari-mutuel pool.

20         Sec. 2028.204. HORSE INDUSTRY ESCROW ACCOUNT; DEPOSIT AND  
21 ALLOCATION OF MONEY [~~IN ESCROW ACCOUNTS~~]. (a) The horse industry  
22 escrow account is a trust account in the department's registry  
23 composed of money deposited to the account in accordance with this  
24 subtitle.

25         (b) A greyhound racetrack association shall deposit into  
26 the horse industry [~~an~~] escrow account [~~in the commission's~~  
27 ~~registry~~] the purse set aside under Section 2028.202(b)(4).

1       (c) ~~[(b)]~~ Any horse racetrack association in this state may  
2 apply to the department ~~[commission]~~ for receipt of money in the  
3 horse industry escrow account for use as purses. Any state horse  
4 breed registry listed in Section 2030.002(a) may apply for receipt  
5 of money in the account for any event that furthers the horse  
6 industry. The department ~~[commission]~~:

7               (1) shall determine the horse racetrack associations  
8 and state horse breed registries to be allocated money from the  
9 account and the percentages to be allocated, taking into  
10 consideration purse levels, racing opportunities, and the  
11 financial status of the requesting racetrack association or  
12 requesting breed registry; and

13               (2) may not annually allocate more than 70 percent of  
14 the amount deposited into the account to horse racetrack  
15 associations for use as purses.

16       SECTION 7.100. Section 2028.2041, Occupations Code, is  
17 amended to read as follows:

18       Sec. 2028.2041. ALLOCATION OF CERTAIN FUNDS IN HORSE  
19 INDUSTRY ESCROW ACCOUNT TO GENERAL REVENUE FUND; MAXIMUM ACCOUNT  
20 BALANCE. (a) In each state fiscal biennium, the comptroller shall  
21 deposit the amounts allocated under Section 151.801(c-3), Tax Code,  
22 into the horse industry escrow account established under Section  
23 2028.204 ~~[2028.204(b)]~~, until the comptroller determines the  
24 amount deposited into the account in that fiscal biennium equals  
25 the greater of:

26               (1) the amount appropriated to the department  
27 ~~[commission]~~ for the purposes of Section 2028.204 for that fiscal

1 biennium; or

2 (2) \$50 million.

3 (b) Once the comptroller determines the greater of the  
4 amount described by Subsection (a)(1) or (2) has been deposited  
5 during a state fiscal biennium into the horse industry escrow  
6 account established under Section 2028.204 [~~2028.204(b)~~], for the  
7 remainder of that fiscal biennium the comptroller shall deposit the  
8 amounts allocated under Section 151.801(c-3), Tax Code, into the  
9 general revenue fund.

10 (c) The balance of the horse industry escrow account  
11 established under Section 2028.204 [~~2028.204(b)~~] shall not exceed  
12 \$50 million.

13 SECTION 7.101. Section 2028.205, Occupations Code, is  
14 amended to read as follows:

15 Sec. 2028.205. ADDITIONAL ALLOCATIONS FROM HORSE INDUSTRY  
16 ESCROW ACCOUNT FOR CERTAIN RACETRACKS. (a) In addition to money  
17 allocated under Section 2028.204, a horse racetrack association  
18 operating a racetrack that is located not more than 75 miles from a  
19 greyhound racetrack that offers wagering on a cross-species  
20 simulcast signal and that sends the cross-species simulcast signal  
21 to the greyhound racetrack may apply to the department [~~commission~~]  
22 for an allocation of up to 20 percent of the money in the horse  
23 industry escrow [~~escrowed~~] account established under Section  
24 2028.204 that is attributable to the wagering on a cross-species  
25 simulcast signal at the greyhound racetrack.

26 (b) If the applying horse racetrack association can prove to  
27 the department's [~~commission's~~] satisfaction that the racetrack

1 association's handle has decreased directly due to wagering on an  
2 interstate cross-species simulcast signal at a greyhound racetrack  
3 located not more than 75 miles from the applying racetrack  
4 association, the department [~~commission~~] shall allocate amounts  
5 from the horse industry escrow [~~escrowed~~] account as the department  
6 [~~commission~~] considers appropriate to compensate the racetrack  
7 association for the decrease. The amounts allocated may not exceed  
8 20 percent of the money in the [~~escrowed~~] account that is  
9 attributable to the wagering on the interstate cross-species  
10 simulcast signal at the greyhound racetrack.

11 (c) Money allocated by the department [~~commission~~] under  
12 this section may be used by the racetrack association for any  
13 purpose.

14 SECTION 7.102. Section 2028.301, Occupations Code, is  
15 amended to read as follows:

16 Sec. 2028.301. TEXAS-BRED INCENTIVE FUND. (a) The  
17 department [~~commission~~] shall deposit money set aside for the  
18 Texas-bred program or set aside for use by state breed registries  
19 under this chapter into an escrow account in the state treasury in  
20 the registry of the department [~~commission~~] to be known as the  
21 Texas-bred incentive fund.

22 (b) The department [~~commission~~] shall distribute money from  
23 the Texas-bred incentive fund in accordance with this chapter and  
24 commission rules.

25 SECTION 7.103. Chapter 2028, Occupations Code, is amended  
26 by adding Subchapter H to read as follows:

27 SUBCHAPTER H. NATIONAL EVENT INCENTIVES

1       Sec. 2028.401. NATIONAL EVENT INCENTIVES. (a) In this  
2 section:

3           (1) "Breeders' Cup costs" means all costs for capital  
4 improvements and extraordinary expenses reasonably incurred for  
5 the operation of the Breeders' Cup races, including purses offered  
6 on other days in excess of the purses that the host association is  
7 required to pay by this subtitle.

8           (2) "Breeders' Cup races" means a series of  
9 thoroughbred races known as the Breeders' Cup Championship races  
10 conducted annually by Breeders' Cup Limited on a day known as  
11 Breeders' Cup Championship day.

12           (3) "Development organization" means an organization  
13 whose primary purpose is the marketing, promotion, or economic  
14 development of a city, county, or region of the state, including  
15 chambers of commerce, convention and visitors bureaus, and sports  
16 commissions.

17           (4) "Political subdivision" means a city, county, or  
18 other political subdivision of the state and includes any entity  
19 created by a political subdivision.

20       (b) An association conducting the Breeders' Cup races may  
21 apply to the reimbursement of Breeders' Cup costs amounts that  
22 would otherwise be set aside by the association for the state under  
23 Sections 2028.051 and 2028.202(a)(1) during the year in which the  
24 association hosts the Breeders' Cup races, limited to an amount  
25 equal to the lesser of the aggregate amount contributed to pay  
26 Breeders' Cup costs by political subdivisions and development  
27 organizations or \$2 million. Beginning on January 1 of the year for

1 which the association has been officially designated to host the  
2 Breeders' Cup races, amounts that would otherwise be set aside by  
3 the association for the state during that year under Sections  
4 2028.051 and 2028.202(a)(1) shall be set aside, in accordance with  
5 procedures prescribed by the comptroller, for deposit into the  
6 Breeders' Cup Developmental Account. The Breeders' Cup  
7 Developmental Account is an account in the general revenue fund.  
8 The department shall administer the account. Money in the account  
9 may be appropriated only to the department and may be used only for  
10 the purposes specified in this section. The account is exempt from  
11 the application of Section 403.095, Government Code.

12 (c) The department shall make disbursements from the  
13 Breeders' Cup Developmental Account to reimburse Breeders' Cup  
14 costs actually incurred and paid by the association, after the  
15 association files a request for reimbursement. Disbursements from  
16 the account may not at any time exceed the aggregate amount actually  
17 paid for Breeders' Cup costs by political subdivisions and  
18 development organizations, as certified by the department to the  
19 comptroller, or \$2 million, whichever is less.

20 (d) Not later than January 31 of the year following the year  
21 in which the association hosts the Breeders' Cup races, the  
22 association shall submit to the department a report that shows:

23 (1) the total amount of Breeders' Cup costs incurred  
24 and paid by the association;

25 (2) the total payments made by political subdivisions  
26 and development organizations for Breeders' Cup costs; and

27 (3) any other information requested by the commission.

1       (e) Following receipt of the report required by Subsection  
2 (d), the department shall take any steps it considers appropriate  
3 to verify the report. Not later than March 31 of the year following  
4 the event, the department shall transfer to the credit of the  
5 general revenue fund any balance remaining in the Breeders' Cup  
6 Developmental Account after reimbursement of any remaining  
7 Breeders' Cup costs authorized under this section.

8       (f) In addition to the authority otherwise granted in this  
9 subtitle, the commission and the comptroller may adopt rules for  
10 the administration of this section as follows:

11               (1) the commission may adopt rules relating to:

12                       (A) auditing or other verification of Breeders'  
13 Cup costs and amounts paid or set aside by political subdivisions  
14 and development organizations; and

15                       (B) the disbursement of funds from the Breeders'  
16 Cup Developmental Account; and

17               (2) the comptroller may adopt rules relating to:

18                       (A) procedures and requirements for transmitting  
19 or otherwise delivering to the treasury the money set aside under  
20 this section; and

21                       (B) depositing funds into the Breeders' Cup  
22 Developmental Account.

23       (g) The commission may adopt rules to facilitate the conduct  
24 of the Breeders' Cup races, including the adoption of rules or  
25 waiver of existing rules relating to the overall conduct of racing  
26 during the Breeders' Cup races in order to assure the integrity of  
27 the races, licensing for all participants, special stabling and

1 training requirements for foreign horses, and commingling of  
2 pari-mutuel pools.

3 (h) To the extent of any conflict between this section and  
4 another provision of this subtitle, this section prevails.

5 SECTION 7.104. Section 2029.001, Occupations Code, is  
6 amended to read as follows:

7 Sec. 2029.001. ALLOCATION OF HORSE RACING DAYS; PROHIBITED  
8 RACING DAYS. (a) The department [~~commission~~] shall allocate the  
9 live and simulcast horse racing days for the conduct of live and  
10 simulcast racing at each racetrack.

11 (b) In allocating race dates under this section, the  
12 department [~~commission~~] shall consider live race dates separately  
13 from simulcast race dates.

14 (c) The commission by rule may prohibit racing on Sunday  
15 unless the prohibition would conflict with another provision of  
16 this subtitle. The commission may delegate to the executive  
17 director the commission's authority under this subsection.

18 SECTION 7.105. Sections 2029.002(a) and (c), Occupations  
19 Code, are amended to read as follows:

20 (a) The department [~~commission~~] shall grant to each  
21 racetrack association additional horse racing days during a horse  
22 race meeting to be conducted as charity days. The department  
23 [~~commission~~] shall grant to each class 1 racetrack and to each class  
24 2 racetrack at least two and not more than five additional days.

25 (c) The department [~~commission~~] shall ensure that races  
26 conducted by a racetrack association on a charity day are  
27 comparable in all respects, including the generation of revenue, to

1 races conducted by that racetrack association on any other horse  
2 racing day.

3 SECTION 7.106. Section 2029.003, Occupations Code, is  
4 amended to read as follows:

5 Sec. 2029.003. ACCESS TO RACES. (a) Each racetrack shall  
6 provide reasonable access to races for all breeds of horses as  
7 determined by the racetrack association through negotiations with  
8 the representative state horse breed registry with the final  
9 approval of the department [~~commission~~].

10 (b) In granting approval under Subsection (a), the  
11 department [~~commission~~] shall consider:

- 12 (1) the availability of competitive horses;  
13 (2) economic feasibility; and  
14 (3) public interest.

15 SECTION 7.107. Sections 2029.052(a) and (b), Occupations  
16 Code, are amended to read as follows:

17 (a) The department [~~commission~~] shall grant not less than  
18 five additional greyhound racing days during a greyhound race  
19 meeting to be conducted as charity days.

20 (b) The department [~~commission~~] shall ensure that races  
21 conducted by a racetrack association on a charity day are  
22 comparable in all respects, including the generation of revenue, to  
23 races conducted by that racetrack association on any other  
24 greyhound racing day.

25 SECTION 7.108. Section 2029.053, Occupations Code, is  
26 amended to read as follows:

27 Sec. 2029.053. SUBSTITUTE RACING DAYS OR ADDITIONAL RACES.

1 If, for a reason beyond a greyhound racetrack association's control  
2 and not caused by the racetrack association's fault or neglect, it  
3 is impossible for the racetrack association to conduct a race on a  
4 day authorized by the department [~~commission~~], the executive  
5 director [~~commission~~] in the executive director's [~~its~~] discretion  
6 and at the request of the racetrack association, as a substitute for  
7 the race, may:

8 (1) specify another day for the racetrack association  
9 to conduct racing; or

10 (2) add additional races to already programmed events.

11 SECTION 7.109. Section 2030.001(b), Occupations Code, is  
12 amended to read as follows:

13 (b) Rules adopted under this section are subject to approval  
14 by the department [~~commission~~].

15 SECTION 7.110. Section 2030.002(b), Occupations Code, is  
16 amended to read as follows:

17 (b) The appropriate state horse breed registry shall act in  
18 an advisory capacity to each racetrack association and to the  
19 department [~~commission~~] for the purpose of administering Sections  
20 2030.003 and 2030.004.

21 SECTION 7.111. Sections 2030.005 and 2030.006, Occupations  
22 Code, are amended to read as follows:

23 Sec. 2030.005. EQUITABLE NUMBER OF RACES FOR EACH BREED.

24 (a) A racetrack association that conducts a horse race meeting for  
25 more than one breed of horse at one racetrack shall provide that the  
26 number of races run by each breed on each day is equitable as  
27 determined by the department [~~commission~~] under Section 2029.003.

1 (b) The commission by rule [~~or by order~~] may allow for an  
2 exception to Subsection (a) if an insufficient number of horses of a  
3 breed are available to provide sufficient competition. The  
4 commission may delegate to the executive director the commission's  
5 authority under this subsection.

6 Sec. 2030.006. EQUITABLE STABLING. A racetrack association  
7 that conducts a horse race meeting for more than one breed of horse  
8 at one racetrack shall provide on-track stalls on an equitable  
9 basis as determined by the department [~~commission~~] under Section  
10 2029.003.

11 SECTION 7.112. Section 2030.051(b), Occupations Code, is  
12 amended to read as follows:

13 (b) Rules adopted under this section are subject to approval  
14 by the department [~~commission~~].

15 SECTION 7.113. Section 2031.001, Occupations Code, is  
16 amended to read as follows:

17 Sec. 2031.001. ESTABLISHMENT OF TEXAS DERBIES. (a) The  
18 commission by rule shall establish as Texas Derbies the following  
19 annual stakes races:

- 20 (1) one race open to three-year-old Thoroughbreds;  
21 (2) one race open only to three-year-old Texas-bred  
22 Thoroughbreds;  
23 (3) one race open to three-year-old quarter horses;  
24 and  
25 (4) one race open only to three-year-old Texas-bred  
26 quarter horses.

27 (b) Each Texas Derby must be held annually on a date and at

1 the class 1 racetrack determined by the department [~~commission~~].

2 The department [~~commission~~] shall determine the location of each  
3 Texas Derby in consultation with:

4 (1) each class 1 racetrack;

5 (2) the official state horse breed registries; and

6 (3) the official horsemen's organization.

7 (c) The department [~~commission~~] may sell the right to name a  
8 Texas Derby. The department [~~commission~~] shall deposit the  
9 proceeds from the sale of the right to name a Texas Derby into the  
10 Texas Derby escrow purse fund established under Section 2031.004.

11 SECTION 7.114. Section 2031.003(a), Occupations Code, is  
12 amended to read as follows:

13 (a) For each Texas Derby, the department [~~commission~~] shall  
14 appoint a state veterinarian to conduct a prerace examination of  
15 each horse entered in the race to determine whether the horse:

16 (1) is healthy; and

17 (2) meets standards set by commission rule for racing.

18 SECTION 7.115. Sections 2031.004(a) and (e), Occupations  
19 Code, are amended to read as follows:

20 (a) The department [~~commission~~] shall establish a Texas  
21 Derby escrow purse fund.

22 (e) The department [~~commission~~] may not:

23 (1) use funds from the accredited Texas-bred program  
24 under Subchapter A, Chapter 2030, or the horse industry escrow  
25 [~~escrowed purse~~] account established under Section 2028.204 to fund  
26 the Texas Derby escrow purse fund; or

27 (2) order a state horse breed registry to fund a purse

1 for a Texas Derby, make contributions to the Texas Derby escrow  
2 purse fund, or pay the expenses of a Texas Derby race.

3 SECTION 7.116. Chapter 2032, Occupations Code, is amended  
4 by adding Section 2032.004 to read as follows:

5 Sec. 2032.004. RULES. The commission may adopt rules as  
6 necessary to:

7 (1) administer this chapter; and

8 (2) ensure public safety and welfare.

9 SECTION 7.117. Section 2033.006(a), Occupations Code, is  
10 amended to read as follows:

11 (a) A person commits an offense if the person knowingly  
12 possesses or displays a credential issued by the department or a  
13 false credential that identifies the person as the holder of the  
14 credential and the person knows that:

15 (1) the credential is not issued to the person; or

16 (2) the person is not a license holder.

17 SECTION 7.118. Sections 2033.007(a) and (b), Occupations  
18 Code, are amended to read as follows:

19 (a) For purposes of this section, a request is lawful if it  
20 is made:

21 (1) at any time by:

22 (A) the department [~~commission~~];

23 (B) an authorized department [~~commission~~] agent;

24 (C) the director or a commissioned officer of the  
25 Department of Public Safety;

26 (D) a peace officer; or

27 (E) a steward or judge; and

1           (2) at any restricted location that is at a racetrack  
2 and is not a public place.

3           (b) A person commits an offense if, after a lawful request,  
4 the person knowingly fails or refuses to:

5           (1) display a credential issued by the department to  
6 another person; or

7           (2) give the person's name, residence address, or date  
8 of birth to another person.

9           SECTION 7.119. Section 2033.008(a), Occupations Code, is  
10 amended to read as follows:

11           (a) A person commits an offense if the person knowingly  
12 wagers on the result of a horse or greyhound race conducted in this  
13 state that:

14           (1) is held on an American Indian reservation or on  
15 American Indian trust land located in this state; and

16           (2) is not held under the supervision of the  
17 department [~~commission~~] under rules adopted under this subtitle.

18           SECTION 7.120. Section 2033.009(a), Occupations Code, is  
19 amended to read as follows:

20           (a) A person commits an offense if the person is a license  
21 holder and the person knowingly permits, facilitates, or allows  
22 access to an enclosure where races are conducted to another person  
23 who the person knows:

24           (1) has engaged in bookmaking, toutting, or illegal  
25 wagering;

26           (2) derives income from illegal activities or  
27 enterprises;

1           (3) has been convicted of a violation of this  
2 subtitle; or

3           (4) is excluded by the department [~~commission~~] from  
4 entering a racetrack.

5           SECTION 7.121. Section 2033.012(c), Occupations Code, is  
6 amended to read as follows:

7           (c) An offense under this section is a state jail felony  
8 unless the statement was material in a department [~~commission~~]  
9 action relating to a racetrack license, in which event the offense  
10 is a felony of the third degree.

11          SECTION 7.122. Section 2033.013(c), Occupations Code, is  
12 amended to read as follows:

13          (c) An offense under this section is a state jail felony if:

14               (1) the actor:

15                       (A) is a license holder under this subtitle or a  
16 commission member or department employee; and

17                       (B) knowingly represents that a commission  
18 member or department employee or a person licensed by the  
19 department [~~commission~~] is the source of the false information; or

20               (2) the false statement or information was contained  
21 in racing selection information provided to the public.

22          SECTION 7.123. Sections 2033.018(a) and (b), Occupations  
23 Code, are amended to read as follows:

24          (a) A person consents to a search for a prohibited device,  
25 prohibited substance, or other contraband at a time and location  
26 described by Subsection (b) if the person:

27               (1) accepts a license or other credential issued by

1 the department under this subtitle; or

2 (2) enters a racetrack under the authority of a  
3 license or other credential alleged to have been issued by the  
4 department under this subtitle.

5 (b) A search may be conducted by a commissioned officer of  
6 the Department of Public Safety or a peace officer, including a  
7 peace officer employed by the department [~~commission~~], at any time  
8 and at any location at a racetrack, except a location:

9 (1) excluded by commission rule from searches under  
10 this section; or

11 (2) provided by a racetrack association under  
12 commission rule for private storage of personal items belonging to  
13 a license holder entering a racetrack.

14 SECTION 7.124. Sections 2033.021, 2033.051, and 2033.052,  
15 Occupations Code, are amended to read as follows:

16 Sec. 2033.021. DEPARTMENT [~~COMMISSION~~] AUTHORITY. This  
17 subchapter does not restrict the department's [~~commission's~~]  
18 administrative authority to enforce this subtitle or commission  
19 rules to the fullest extent authorized by this subtitle.

20 Sec. 2033.051. IMPOSITION OF PENALTY. If the commission or  
21 the executive director determines that a person regulated under  
22 this subtitle has violated this subtitle or a rule or order adopted  
23 under this subtitle in a manner that constitutes a ground for a  
24 disciplinary action under this subtitle, the commission or the  
25 executive director may assess an administrative penalty against  
26 that person as provided by this subchapter or Subchapter F, Chapter  
27 51.

1           Sec. 2033.052. AMOUNT OF PENALTY. (a) Notwithstanding  
2 Subchapter F, Chapter 51, the [The] commission or the executive  
3 director may assess an administrative penalty under this subchapter  
4 in an amount not to exceed \$10,000 for each violation.

5           (b) In determining the amount of the penalty, the commission  
6 or the executive director shall consider the criteria listed in  
7 Section 51.302(b) [~~seriousness of the violation~~].

8           SECTION 7.125. Section 2033.057(a), Occupations Code, is  
9 amended to read as follows:

10          (a) A complaint alleging a violation of this subtitle may be  
11 instituted by the Department of Public Safety, the department  
12 [~~commission~~], or the attorney general.

13          SECTION 7.126. Subchapter B, Chapter 2033, Occupations  
14 Code, is amended by adding Section 2033.058 to read as follows:

15          Sec. 2033.058. DISPOSITION OF ADMINISTRATIVE PENALTY. The  
16 commission shall remit an administrative penalty collected under  
17 this subtitle to the comptroller for deposit in the general revenue  
18 fund.

19          SECTION 7.127. Section 2033.101(b), Occupations Code, is  
20 amended to read as follows:

21          (b) On issuance of a cease and desist order, a department  
22 employee or authorized department agent [~~the executive director~~]  
23 shall serve a proposed cease and desist order on the racetrack  
24 association or other license holder by personal delivery or  
25 registered or certified mail, return receipt requested, to the  
26 person's last known address.

27          SECTION 7.128. Sections 2033.102(b) and (c), Occupations

1 Code, are amended to read as follows:

2 (b) On receiving a request for a hearing, a department  
3 employee or authorized department agent [~~the executive director~~]  
4 shall serve notice of the time and place of the hearing by personal  
5 delivery or registered or certified mail, return receipt requested.

6 (c) At a hearing, the department [~~commission~~] has the burden  
7 of proof and must present evidence in support of the order. Each  
8 person against whom the order is directed may cross-examine and  
9 show cause why the order should not be issued.

10 SECTION 7.129. Section 2033.104(b), Occupations Code, is  
11 amended to read as follows:

12 (b) After the executive director issues [~~issuing~~] an  
13 emergency cease and desist order, a department employee or  
14 authorized department agent [~~the executive director~~] shall serve on  
15 the racetrack association or other license holder by personal  
16 delivery or registered or certified mail, return receipt requested,  
17 to the person's last known address, an order stating the specific  
18 charges and requiring the person immediately to cease and desist  
19 from the conduct that violates this subtitle or a commission rule.  
20 The order must contain a notice that a request for hearing may be  
21 filed under this section.

22 SECTION 7.130. Sections 2033.105(c) and (d), Occupations  
23 Code, are amended to read as follows:

24 (c) On receiving a request for a hearing, a department  
25 employee or authorized department agent [~~the executive director~~]  
26 shall serve notice of the time and place of the hearing by personal  
27 delivery or registered or certified mail, return receipt requested.

1 The hearing must be held not later than the 10th day after the date  
2 the executive director receives the request for a hearing unless  
3 the parties agree to a later hearing date.

4 (d) At the hearing, the department ~~[commission]~~ has the  
5 burden of proof and must present evidence in support of the order.  
6 The person requesting the hearing may cross-examine witnesses and  
7 show cause why the order should not be affirmed. ~~[Section~~  
8 ~~2003.021(b), Government Code, does not apply to hearings conducted~~  
9 ~~under this section.]~~

10 SECTION 7.131. Section 2033.106(a), Occupations Code, is  
11 amended to read as follows:

12 (a) If the executive director reasonably believes that a  
13 person has violated a final and enforceable cease and desist or  
14 emergency order, the executive director may:

15 (1) initiate administrative penalty proceedings under  
16 Subchapter B;

17 (2) refer the matter to the attorney general for  
18 enforcement by injunction and any other available remedy; or

19 (3) pursue any other action that the executive  
20 director considers appropriate, including suspension of the  
21 person's license.

22 SECTION 7.132. Section 2033.151, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2033.151. DISCIPLINARY ACTIONS. (a) The commission  
25 may ~~[shall]~~ revoke, suspend, or refuse to renew a license, place on  
26 probation a person whose license has been suspended, or reprimand a  
27 license holder for a violation of this subtitle or a commission

1 rule.

2 (b) If a license suspension is probated, the commission may  
3 require the license holder to report regularly to the department  
4 [~~commission~~] on matters that are the basis of the probation.

5 (c) A disciplinary proceeding under this subtitle is  
6 governed by:

7 (1) Chapter 51; and

8 (2) commission rules adopted under Chapter 51.

9 SECTION 7.133. The heading to Section 2033.152, Occupations  
10 Code, is amended to read as follows:

11 Sec. 2033.152. PROCEEDING FOR DISCIPLINARY ACTION  
12 [~~HEARING~~] CONCERNING SUSPENSION, REVOCATION, OR REFUSAL TO RENEW  
13 LICENSE.

14 SECTION 7.134. Section 2033.152(b), Occupations Code, is  
15 amended to read as follows:

16 (b) A proceeding [~~Proceedings~~] for a disciplinary action,  
17 other than those conducted by a steward or judge, in which the  
18 commission proposes to suspend, revoke, or refuse to renew a  
19 person's license is [~~are~~] governed by Chapter 2001, Government  
20 Code.

21 SECTION 7.135. Section 2033.153, Occupations Code, is  
22 amended to read as follows:

23 Sec. 2033.153. INJUNCTION. The department [~~commission~~] may  
24 institute an action in its own name to enjoin the violation of this  
25 subtitle. An action for an injunction is in addition to any other  
26 action, proceeding, or remedy authorized by law.

27 SECTION 7.136. Section 2033.154(b), Occupations Code, is

1 amended to read as follows:

2 (b) The executive director may issue an order prohibiting  
3 the racetrack association from making any transfer from a bank  
4 account held by the racetrack association for the conduct of  
5 business under this subtitle, pending department [~~commission~~]  
6 review of the records of the account, if the executive director  
7 reasonably believes that the racetrack association has failed to  
8 maintain the proper amount of money in the horsemen's account. The  
9 executive director shall provide in the order a procedure for the  
10 racetrack association to pay certain expenses necessary for the  
11 operation of the racetrack, subject to the executive director's  
12 approval.

13 SECTION 7.137. Section 2034.001, Occupations Code, is  
14 amended by amending Subsections (b) and (c) and adding Subsection  
15 (e) to read as follows:

16 (b) The rules adopted under this section by the commission  
17 shall require testing to determine whether a prohibited substance  
18 has been used.

19 (c) The [~~commission's~~] rules adopted under this section  
20 must require state-of-the-art testing methods. The testing may:

21 (1) be prerace or postrace as determined by the  
22 department [~~commission~~]; and

23 (2) be by an invasive or noninvasive method.

24 (e) The commission shall adopt rules regarding disciplinary  
25 actions under this chapter, including the right of appeal to the  
26 commission from a disciplinary action under Section 2034.006.

27 SECTION 7.138. Section 2034.002, Occupations Code, is

1 amended to read as follows:

2           Sec. 2034.002. MEDICATION AND DRUG TESTING PROCEDURES. (a)  
3 Medication or drug testing performed on a race animal under this  
4 subtitle must be conducted by:

5                   (1) the Texas A&M Veterinary Medical Diagnostic  
6 Laboratory; or

7                   (2) a laboratory operated by or in conjunction with or  
8 by a private or public agency selected by the department  
9 [~~commission~~] after consultation with the Texas A&M Veterinary  
10 Medical Diagnostic Laboratory.

11           (b) Medication or drug testing performed on a human under  
12 this subtitle must be conducted by a laboratory approved by the  
13 department [~~commission~~].

14           SECTION 7.139. Sections 2034.003(c), (d), and (e),  
15 Occupations Code, are amended to read as follows:

16           (c) Charges for services performed under this section must  
17 be forwarded to the department [~~commission~~] for approval of the  
18 reasonableness of the charges. Charges may include expenses  
19 incurred for travel, lodging, testing, and processing of test  
20 results.

21           (d) The department [~~commission~~] shall determine whether the  
22 laboratory charges are reasonable in relation to industry standards  
23 by periodically surveying the drug testing charges of comparable  
24 laboratories in the United States.

25           (e) The racetrack association that receives the services is  
26 responsible for the cost of approved charges for animal drug  
27 testing services under this section. The department [~~commission~~]

1 shall forward a copy of the charges to the racetrack association for  
2 immediate payment.

3 SECTION 7.140. Sections 2034.005(a) and (b), Occupations  
4 Code, are amended to read as follows:

5 (a) The department [~~commission~~] may require urine samples  
6 to be frozen for a period necessary to allow any follow-up testing  
7 to detect and identify a prohibited substance. Any other specimen  
8 shall be maintained for testing purposes in a manner required by  
9 commission rule.

10 (b) If a test sample or specimen shows the presence of a  
11 prohibited substance, the entire sample, including any split  
12 portion remaining in the custody of the department [~~commission~~],  
13 shall be maintained until final disposition of the matter.

14 SECTION 7.141. Section 2034.007, Occupations Code, is  
15 amended to read as follows:

16 Sec. 2034.007. DISCIPLINARY ACTION FOR RULE VIOLATION OF  
17 PROHIBITED DEVICE OR SUBSTANCE. In addition to any other  
18 disciplinary action authorized by Chapter 51, this subtitle, or  
19 commission rule, a [A] person who violates a rule adopted under this  
20 chapter may:

21 (1) have any license issued to the person by the  
22 department [~~commission~~] revoked or suspended; or

23 (2) be barred for life or any other period from  
24 applying for or receiving a license issued by the department  
25 [~~commission~~] or entering any portion of a racetrack.

26 SECTION 7.142. Section 2035.001(a), Occupations Code, is  
27 amended to read as follows:

1           (a) The department [~~commission~~] may not issue a racetrack  
2 license or accept a license application for a racetrack to be  
3 located in a county until the commissioners court has certified to  
4 the secretary of state that the qualified voters of the county have  
5 approved the legalization of pari-mutuel wagering on horse races or  
6 greyhound races in the county at an election held under this  
7 chapter.

8           SECTION 7.143. Section 2035.052, Occupations Code, is  
9 amended to read as follows:

10          Sec. 2035.052. PARTIES. Any person who is licensed or who  
11 has submitted to the department [~~commission~~] an application to be  
12 licensed in any capacity under this subtitle may become a named  
13 party to the contest proceedings by pleading to the petition on or  
14 before the time set for hearing and trial as provided by Section  
15 2035.053(b) or after that time by intervention on leave of court.

16          SECTION 7.144. Section 151.801(c-3), Tax Code, is amended  
17 to read as follows:

18          (c-3) Subject to the limitation imposed under Section  
19 2028.2041, Occupations Code, an amount equal to the proceeds from  
20 the collection of the taxes imposed by this chapter on the sale,  
21 storage, or use of horse feed, horse supplements, horse tack, horse  
22 bedding and grooming supplies, and other taxable expenditures  
23 directly related to horse ownership, riding, or boarding shall be  
24 deposited to the credit of the horse industry escrow account  
25 administered by the Texas Department of Licensing and Regulation  
26 [~~Racing Commission~~] and established under Section 2028.204,  
27 Occupations Code.

1           SECTION 7.145. Article 2.12, Code of Criminal Procedure, is  
2 amended to read as follows:

3           Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
4 officers:

5           (1) sheriffs, their deputies, and those reserve  
6 deputies who hold a permanent peace officer license issued under  
7 Chapter 1701, Occupations Code;

8           (2) constables, deputy constables, and those reserve  
9 deputy constables who hold a permanent peace officer license issued  
10 under Chapter 1701, Occupations Code;

11           (3) marshals or police officers of an incorporated  
12 city, town, or village, and those reserve municipal police officers  
13 who hold a permanent peace officer license issued under Chapter  
14 1701, Occupations Code;

15           (4) rangers, officers, and members of the reserve  
16 officer corps commissioned by the Public Safety Commission and the  
17 Director of the Department of Public Safety;

18           (5) investigators of the district attorneys', criminal  
19 district attorneys', and county attorneys' offices;

20           (6) law enforcement agents of the Texas Alcoholic  
21 Beverage Commission;

22           (7) each member of an arson investigating unit  
23 commissioned by a city, a county, or the state;

24           (8) officers commissioned under Section 37.081,  
25 Education Code, or Subchapter E, Chapter 51, Education Code;

26           (9) officers commissioned by the General Services  
27 Commission;

1           (10) law enforcement officers commissioned by the  
2 Parks and Wildlife Commission;

3           (11) airport police officers commissioned by a city  
4 with a population of more than 1.18 million located primarily in a  
5 county with a population of 2 million or more that operates an  
6 airport that serves commercial air carriers;

7           (12) airport security personnel commissioned as peace  
8 officers by the governing body of any political subdivision of this  
9 state, other than a city described by Subdivision (11), that  
10 operates an airport that serves commercial air carriers;

11           (13) municipal park and recreational patrolmen and  
12 security officers;

13           (14) security officers and investigators commissioned  
14 as peace officers by the comptroller;

15           (15) officers commissioned by a water control and  
16 improvement district under Section 49.216, Water Code;

17           (16) officers commissioned by a board of trustees  
18 under Chapter 54, Transportation Code;

19           (17) investigators commissioned by the Texas Medical  
20 Board;

21           (18) officers commissioned by:

22           (A) the board of managers of the Dallas County  
23 Hospital District, the Tarrant County Hospital District, the Bexar  
24 County Hospital District, or the El Paso County Hospital District  
25 under Section 281.057, Health and Safety Code;

26           (B) the board of directors of the Ector County  
27 Hospital District under Section 1024.117, Special District Local

1 Laws Code;

2 (C) the board of directors of the Midland County  
3 Hospital District of Midland County, Texas, under Section 1061.121,  
4 Special District Local Laws Code; and

5 (D) the board of hospital managers of the Lubbock  
6 County Hospital District of Lubbock County, Texas, under Section  
7 1053.113, Special District Local Laws Code;

8 (19) county park rangers commissioned under  
9 Subchapter E, Chapter 351, Local Government Code;

10 (20) investigators employed by the Texas Department of  
11 Licensing and Regulation in relation to the regulation of racing  
12 under Subtitle A-1, Title 13, Occupations Code [~~Racing Commission~~];

13 (21) officers commissioned under Chapter 554,  
14 Occupations Code;

15 (22) officers commissioned by the governing body of a  
16 metropolitan rapid transit authority under Section 451.108,  
17 Transportation Code, or by a regional transportation authority  
18 under Section 452.110, Transportation Code;

19 (23) investigators commissioned by the attorney  
20 general under Section 402.009, Government Code;

21 (24) security officers and investigators commissioned  
22 as peace officers under Chapter 466, Government Code;

23 (25) officers appointed by an appellate court under  
24 Subchapter F, Chapter 53, Government Code;

25 (26) officers commissioned by the state fire marshal  
26 under Chapter 417, Government Code;

27 (27) an investigator commissioned by the commissioner

1 of insurance under Section 701.104, Insurance Code;

2 (28) apprehension specialists and inspectors general  
3 commissioned by the Texas Juvenile Justice Department as officers  
4 under Sections 242.102 and 243.052, Human Resources Code;

5 (29) officers appointed by the inspector general of  
6 the Texas Department of Criminal Justice under Section 493.019,  
7 Government Code;

8 (30) investigators commissioned by the Texas  
9 Commission on Law Enforcement under Section 1701.160, Occupations  
10 Code;

11 (31) commission investigators commissioned by the  
12 Texas Private Security Board under Section 1702.061, Occupations  
13 Code;

14 (32) the fire marshal and any officers, inspectors, or  
15 investigators commissioned by an emergency services district under  
16 Chapter 775, Health and Safety Code;

17 (33) officers commissioned by the State Board of  
18 Dental Examiners under Section 254.013, Occupations Code, subject  
19 to the limitations imposed by that section;

20 (34) investigators commissioned by the Texas Juvenile  
21 Justice Department as officers under Section 221.011, Human  
22 Resources Code; and

23 (35) the fire marshal and any related officers,  
24 inspectors, or investigators commissioned by a county under  
25 Subchapter B, Chapter 352, Local Government Code.

26 SECTION 7.146. (a) Section 411.096, Government Code, is  
27 repealed.

1 (b) The following provisions of the Occupations Code are  
2 repealed:

3 (1) Sections 2022.001(b), (c), (d), (e), and (f);

4 (2) Section 2022.002(b);

5 (3) Sections 2022.003, 2022.004, 2022.005, 2022.006,  
6 and 2022.007;

7 (4) Sections 2022.009(b) and (c);

8 (5) Sections 2022.010, 2022.011, 2022.012, 2022.013,  
9 2022.014, and 2022.051;

10 (6) Sections 2022.052(a) and (b);

11 (7) Sections 2022.053, 2022.054, 2022.055, 2022.056,  
12 2022.057, 2022.101, 2022.102, and 2022.106;

13 (8) Sections 2023.004(b), (c), and (f);

14 (9) Section 2023.009;

15 (10) Section 2025.204(e);

16 (11) Section 2025.258(b);

17 (12) Sections 2033.053, 2033.054, 2033.055, and  
18 2033.056;

19 (13) Section 2033.057(b); and

20 (14) Sections 2033.152(a) and (c).

21 (c) Title 6, Vernon's Texas Civil Statutes, is repealed.

22 SECTION 7.147. (a) On September 1, 2021, the Texas Racing  
23 Commission is abolished but continues in existence until December  
24 1, 2021, for the sole purpose of transferring all obligations,  
25 property, rights, powers, duties, leases, contracts, software,  
26 data, and full-time equivalent employee positions to the Texas  
27 Department of Licensing and Regulation. The Texas Department of

1 Licensing and Regulation assumes all of the obligations, property,  
2 rights, powers, duties, leases, contracts, software, data, and  
3 full-time equivalent employee positions of the Texas Racing  
4 Commission as they exist immediately before September 1, 2021. All  
5 unexpended funds appropriated to the Texas Racing Commission are  
6 transferred to the Texas Department of Licensing and Regulation.

7 (b) On September 1, 2021, all full-time equivalent employee  
8 positions at the Texas Racing Commission become positions at the  
9 Texas Department of Licensing and Regulation. On September 1,  
10 2021, all employees who were employed by the Texas Racing  
11 Commission on August 31, 2021, become employees of the Texas  
12 Department of Licensing and Regulation, except for any employee in:

13 (1) an exempt position; or

14 (2) a position at or above salary group B27 in the  
15 Texas Position Classification Plan, 1961.

16 (c) The Texas Racing Commission and the Texas Department of  
17 Licensing and Regulation shall, in consultation with appropriate  
18 state entities, ensure that the transfer of the obligations,  
19 property, rights, powers, duties, leases, contracts, software,  
20 data, and full-time equivalent employee positions of the Texas  
21 Racing Commission to the Texas Department of Licensing and  
22 Regulation is completed not later than December 1, 2021.

23 (d) All rules, fees, policies, procedures, decisions, and  
24 forms adopted by the Texas Racing Commission are continued in  
25 effect as rules, fees, policies, procedures, decisions, and forms  
26 adopted by the Texas Department of Licensing and Regulation until  
27 amended or superseded by a rule, fee, policy, procedure, decision,

1 or form adopted by the Texas Commission of Licensing and Regulation  
2 or Texas Department of Licensing and Regulation, as applicable. A  
3 license issued by the Texas Racing Commission is continued in  
4 effect as provided by the law in effect immediately before  
5 September 1, 2021. An application for a license, endorsement, or  
6 certificate of registration pending on September 1, 2021, is  
7 continued without change in status after September 1, 2021. A  
8 complaint, investigation, contested case, or other proceeding  
9 pending on September 1, 2021, is continued without change in status  
10 after September 1, 2021.

11 (e) Beginning on the effective date of this subsection, the  
12 Texas Racing Commission shall provide the Texas Department of  
13 Licensing and Regulation, and other appropriate state entities,  
14 access to any systems or information necessary for the Texas  
15 Department of Licensing and Regulation to accept the obligations,  
16 property, rights, powers, duties, leases, contracts, software,  
17 data, and full-time equivalent employee positions transferred  
18 under this Act, including:

19 (1) licensing, revenue, and expenditure systems and  
20 any associated databases;

21 (2) contracts, leases, and licensing agreements;

22 (3) online renewal and new application systems and any  
23 associated databases;

24 (4) pending judgments and outstanding expenditures;

25 and

26 (5) data related to persons employed by or contracted  
27 with the Texas Racing Commission.

1 (f) Not later than September 1, 2022, the Texas Commission  
2 of Licensing and Regulation shall adopt any rules necessary to  
3 implement the changes in law made by this Act to Subtitle A-1, Title  
4 13, Occupations Code.

5 (g) Unless the context indicates otherwise, a reference to  
6 the Texas Racing Commission in a law or administrative rule means  
7 the Texas Department of Licensing and Regulation.

8 SECTION 7.148. (a) Not later than December 1, 2021, the  
9 presiding officer of the Texas Commission of Licensing and  
10 Regulation, with the approval of the Texas Commission of Licensing  
11 and Regulation, shall appoint members to the Texas Racing Advisory  
12 Board in accordance with Section 2022.001, Occupations Code, as  
13 amended by this Act. A member of the Texas Racing Commission whose  
14 term expired under Section 7.147 of this Act is eligible for  
15 appointment to the advisory board.

16 (b) The members of the Texas Racing Commission whose terms  
17 expire under Section 7.147 of this Act shall continue to provide  
18 advice to the Texas Department of Licensing and Regulation until a  
19 majority of the members of the Texas Racing Advisory Board are  
20 appointed under Subsection (a) of this section and qualified.

21 SECTION 7.149. (a) Not later than September 1, 2023, the  
22 executive director of the Texas Department of Licensing and  
23 Regulation in accordance with Section 51.202(c), Occupations Code,  
24 shall determine with reasonable accuracy the cost to the department  
25 of the racing program and activities for which a fee is charged.

26 (b) The executive director of the Texas Department of  
27 Licensing and Regulation, on development of the cost management

1 procedures, shall make recommendations to the Texas Commission of  
2 Licensing and Regulation for review and consideration.

3 SECTION 7.150. The changes in law made by this article apply  
4 to revenue received from the imposition of an administrative  
5 penalty on or after September 1, 2021, regardless of whether the  
6 penalty was imposed before, on, or after September 1, 2021.

7 SECTION 7.151. A violation of a law that is repealed by this  
8 article is governed by the law in effect when the violation  
9 occurred, and the former law is continued in effect for that  
10 purpose.

#### 11 ARTICLE 8. TRANSITION AND EFFECTIVE DATE

12 SECTION 8.01. The repeal of a statute by this Act controls  
13 over an amendment, revision, or reenactment of the statute by  
14 another Act of the 87th Legislature, Regular Session, 2021,  
15 regardless of relative dates of enactment and the amendment,  
16 revision, or reenactment of the repealed statute has no effect.

17 SECTION 8.02. (a) Except as otherwise provided by  
18 Subsection (b) of this section, this Act takes effect September 1,  
19 2021.

20 (b) Section 7.147(e) of this Act takes effect June 15, 2021,  
21 if this Act receives a vote of two-thirds of all the members elected  
22 to each house, as provided by Section 39, Article III, Texas  
23 Constitution. If this Act does not receive the vote necessary for  
24 immediate effect, Section 7.147(e) of this Act takes effect  
25 September 1, 2021.

ADOPTED

MAY 24 2021

FLOOR AMENDMENT NO. 1

*Latey Law*  
Secretary of the Senate

BY: *D. Burking*

Amend C.S.H.B. No. 1560 (senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1.\_\_\_\_. Section 51.053, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other law, a person may be a member of the commission if the person or the person's spouse is registered, certified, or licensed by a regulatory agency in the field of health care.

(2) In SECTION 4.20 of the bill, amending Section 1001.201, Education Code, strike Subsection (b) (page 33, lines 15-28) and substitute the following:

(b) The commission by rule shall provide for the issuance of a single license to a person who meets the requirements for and seeks to provide driver education courses or driver education course materials under more than one driver education provider license.

(3) In SECTION 4.71 of the bill, adding transition language (page 45, line 26), between "4.71." and "The", insert "(a)".

(4) In SECTION 4.71 of the bill, adding transition language (page 45, line 30), strike "September 1, 2021" and substitute "June 1, 2023".

(5) In SECTION 4.71 of the bill, adding transition language (page 45, line 32), after the period, insert the following:

(b) Notwithstanding Section 4.67 of this article, the Texas Department of Licensing and Regulation by rule shall provide for the continuance of each program or course under Article 45.0511(u),

1 Code of Criminal Procedure, Section 1001.103 or 1001.111, Education  
2 Code, or Section 545.412(g) or 545.413(i), Transportation Code, as  
3 repealed by this article, until the date on which the department  
4 determines that every person subject to a court order entered  
5 before June 1, 2023, requiring participation in a program or course  
6 under those provisions has had adequate time to complete the  
7 program or course in compliance with the court order.

8 (6) Add the following appropriately numbered SECTION to  
9 ARTICLE 4 of the bill and renumber the SECTIONS of that ARTICLE  
10 accordingly:

11 SECTION 4.\_\_\_\_. The repeal by this article of Article  
12 45.0511(u), Code of Criminal Procedure, Sections 1001.103 and  
13 1001.111, Education Code, and Sections 545.412(g) and 545.413(i),  
14 Transportation Code, takes effect June 1, 2023.

15 (7) Strike ARTICLE 5 of the bill, regulating residential  
16 service contracts (page 45, line 37, through page 49, line 21), and  
17 renumber subsequent ARTICLES and SECTIONS of the bill accordingly.

18 (8) Strike ARTICLE 6 of the bill, regulating  
19 speech-language pathologists and audiologists (page 49, line 22,  
20 through page 50, line 1), and renumber subsequent ARTICLES and  
21 SECTIONS of the bill accordingly.

22 (9) In SECTION 8.02(a) of the bill, adding an effective date  
23 (page 86, line 64), strike "Subsection (b) of this section" and  
24 substitute "this Act".

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 25, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1560** by Goldman (Relating to the continuation and functions of the Texas Department of Licensing and Regulation.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1560, As Passed 2nd House : a negative impact of (\$192,860) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	(\$133,280)
2023	(\$59,580)
2024	(\$132,230)
2025	(\$132,230)
2026	(\$132,230)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Priv Beauty Culture Sch</i> 108	Probable Revenue Gain/(Loss) from <i>Barber School Tuition Protection</i> 5081
2022	\$62,220	(\$195,500)	(\$202,000)	(\$25,000)
2023	\$62,220	(\$121,800)	\$0	\$0
2024	\$62,220	(\$194,450)	\$0	\$0
2025	\$62,220	(\$194,450)	\$0	\$0
2026	\$62,220	(\$194,450)	\$0	\$0

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>New Barbering and Cosmetology School Tuition Protection Account</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	\$227,000	(0.5)
2023	\$0	(0.5)
2024	\$0	(0.5)
2025	\$0	(0.5)
2026	\$0	(0.5)

## **Fiscal Analysis**

The bill would continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2033.

The bill would eliminate the polygraph examiners program, combative sports matchmaker, event coordinator and second licenses.

The bill would require TDLR to study the regulation of auctioneering and submit a report to the appropriate legislative committees by January 1, 2023 with findings and recommendations to improve public safety and the agency's processes.

The bill would consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one. The bill eliminates the separate Barber School Tuition Protection Account and Private Beauty Culture School Tuition Protection Account and creates a single Barbering and Cosmetology School Tuition Protection Account. The bill would eliminate all wig-related licenses and state regulation of barber poles. The bill would remove the barber and cosmetology instructor licenses and require those positions be filled by licensed barbers and cosmetologists.

The bill would eliminate certain administrative functions and course approval fees in the driver education and safety programs and eliminate certain license types associated with driving safety, specialized driving safety, and drug and alcohol driving awareness program courses.

The bill would require TDLR to perform inspections based on risk instead of on a periodic basis. The bill would also authorize TDLR to use alternative inspection methods, where appropriate.

The bill would abolish the Texas Racing Commission (TRC) on September 1, 2021 but continue TRC in existence until December 1, 2021 for the purpose of transferring obligations, property, rights, powers, and duties to TDLR. The bill would transfer the licensing and regulation of racing to the Texas Commission of Licensing and Regulation (Commission) and TDLR. The bill would create the Texas Racing Advisory Board at TDLR. The bill would require TDLR to remit certain administrative penalties to the Comptroller of Public Accounts (Comptroller) for deposit in the General Revenue Fund. The bill would transfer administration of Fund 0876 – Horse Industry Escrow Trust Account from TRC to TDLR. The bill would require the Comptroller to allocate and deposit certain funds into the Horse Industry Escrow Trust Account and General Revenue Fund 0001. The bill would create the Breeders' Cup Developmental Account in the General Revenue Fund to be administered by TDLR. Money in the account could only be appropriated to TDLR and only for certain purposes.

The bill would take effect September 1, 2021, except for provisions related to the abolishment of TRC which would take effect June 15, 2021 if the act received a two-thirds majority vote in both houses of the Legislature.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

According to TDLR, any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk parameters and any resulting inspection frequency, and the parameters and procedures for alternative inspections methods, have all been finalized and are in use. However, the agency reports any increases or decreases are expected to be minimal.

Based on information provided by TDLR, this analysis assumes that beginning in fiscal year 2022 and each year thereafter, the repeal of the Polygraph Examiners program, and the event coordinator, second, and matchmaker license types in the Combative Sports program would result in a loss of \$98,425 to General Revenue from license fees and a savings of \$62,220 to General Revenue and a decrease of 0.5 full-time equivalent (FTE) positions.

Beginning in fiscal year 2023, and each year thereafter, the provisions of the bill would also result in a gain of net loss of \$12,050 to General Revenue from license fees related to changes to the barber and cosmetology programs. The provisions of the bill related to driver education programs would also result in a loss of \$176,075 to General Revenue in fiscal year 2022, a net loss of \$90,325 in fiscal year 2023, and a net loss of \$162,975 each fiscal year thereafter.

According to TDLR, all of the funding and FTEs, including all contingency appropriations related to reopening horse racetracks, additional live horse race days, and additional greyhound race days, currently appropriated to TRC will be needed by TDLR to continue the regulation of racing. This analysis assumes the transfer of racing to TDLR will not result in a significant fiscal impact to the state and revenue collections related to the racing program will not change due to implementation of this legislation. Based on information provided by the Comptroller, this analysis assumes the average annual revenue from administrative fines related to the racing program will result in a General Revenue gain of approximately \$79,000 per fiscal year.

TDLR indicates that any other costs associated with the bill could be absorbed within the agency's existing resources. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 329 Real Estate Commission, 405 Department of Public Safety, 452 Dept of License & Reg

**LBB Staff:** JMc, LBO, MB, DFR, SZ, SD

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 21, 2021

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1560** by Goldman (relating to the continuation and functions of the Texas Department of Licensing and Regulation.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1560, Committee Report 2nd House, Substituted : a negative impact of (\$99,310) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	(\$99,530)
2023	\$220
2024	(\$64,930)
2025	(\$64,930)
2026	(\$64,930)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Priv Beauty Culture Sch</i> 108	Probable Revenue Gain/(Loss) from <i>Barber School Tuition Protection</i> 5081
2022	\$62,220	(\$161,750)	(\$202,000)	(\$25,000)
2023	\$62,220	(\$62,000)	\$0	\$0
2024	\$62,220	(\$127,150)	\$0	\$0
2025	\$62,220	(\$127,150)	\$0	\$0
2026	\$62,220	(\$127,150)	\$0	\$0

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>New Barbering and Cosmetology School Tuition Protection Account</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	\$227,000	(0.5)
2023	\$0	(0.5)
2024	\$0	(0.5)
2025	\$0	(0.5)
2026	\$0	(0.5)

## **Fiscal Analysis**

The bill would continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2033.

The bill would eliminate the polygraph examiners program, combative sports matchmaker, event coordinator and second licenses.

The bill would require TDLR to study the regulation of auctioneering and submit a report to the appropriate legislative committees by January 1, 2023 with findings and recommendations to improve public safety and the agency's processes.

The bill would consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one. The bill eliminates the separate Barber School Tuition Protection Account and Private Beauty Culture School Tuition Protection Account and creates a single Barbering and Cosmetology School Tuition Protection Account. The bill would eliminate all wig-related licenses and state regulation of barber poles. The bill would remove the barber and cosmetology instructor licenses and require those positions be filled by licensed barbers and cosmetologists.

The bill would eliminate certain administrative functions and course approval fees in the driver education and safety programs and eliminate certain license types associated with driving safety, specialized driving safety, and drug and alcohol driving awareness program courses.

The bill would require TDLR to perform inspections based on risk instead of on a periodic basis. The bill would also authorize TDLR to use alternative inspection methods, where appropriate.

The bill would transfer the licensing and regulation of residential service companies from the Texas Real Estate Commission (TREC) to be regulated within TDLR's service contract providers program.

The bill would abolish the Texas Racing Commission (TRC) on September 1, 2021 but continue TRC in existence until December 1, 2021 for the purpose of transferring obligations, property, rights, powers, and duties to TDLR. The bill would transfer the licensing and regulation of racing to the Texas Commission of Licensing and Regulation (Commission) and TDLR. The bill would create the Texas Racing Advisory Board at TDLR. The bill would require TDLR to remit certain administrative penalties to the Comptroller of Public Accounts (Comptroller) for deposit in the General Revenue Fund. The bill would transfer administration of Fund 0876 – Horse Industry Escrow Trust Account from TRC to TDLR. The bill would require the Comptroller to allocate and deposit certain funds into the Horse Industry Escrow Trust Account and General Revenue Fund 0001. The bill would create the Breeders' Cup Developmental Account in the General Revenue Fund to be administered by TDLR. Money in the account could only be appropriated to TDLR and only for certain purposes.

The bill would take effect September 1, 2021, except for provisions related to the abolishment of TRC which would take effect June 15, 2021 if the act received a two-thirds majority vote in both houses of the Legislature. Otherwise, the provisions would take effect September 1, 2021.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

According to TDLR, any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk parameters and any resulting inspection frequency, and the parameters and procedures for alternative inspections methods, have all been finalized and are in use. However, the agency reports any increases or decreases are expected to be minimal.

Based on information provided by TDLR, this analysis assumes that beginning in fiscal year 2022 and each year

thereafter, the repeal of the Polygraph Examiners program, and the event coordinator, second, and matchmaker license types in the Combative Sports program would result in a loss of \$98,425 to General Revenue from license fees and a savings of \$62,220 to General Revenue and a decrease of 0.5 full-time equivalent (FTE) positions.

Beginning in fiscal year 2023, and each year thereafter, the provisions of the bill would also result in a gain of net loss of \$12,050 to General Revenue from license fees related to changes to the barber and cosmetology programs. The provisions of the bill related to driver education programs would also result in a loss of \$156,575 to General Revenue in fiscal year 2022, a net loss of \$71,025 in fiscal year 2023, and a net loss of \$136,175 each fiscal year thereafter.

Based on information provided by TDLR, this analysis assumes that all residential service companies will become service contract providers regulated by TDLR and will continue to offer residential service contracts under the new registration. TDLR reports this workload is expected to be minimal and can be absorbed within existing resources. Because these companies have been regulated by TREC, a self-directed, semi-independent state agency, all registration fees have previously been deposited to that agency's account outside the State Treasury. The transfer of these entities to TDLR will result in an increase to the General Revenue Fund estimated to be \$14,250 in fiscal year 2022 and \$40,500 each fiscal year thereafter. TREC reports it would no longer collect approximately \$260,000 each year from related fees; however, this would not have a fiscal impact on the State Treasury.

According to TDLR, all of the funding and FTEs, including all contingency appropriations related to reopening horse racetracks, additional live horse race days, and additional greyhound race days, currently appropriated to TRC will be needed by TDLR to continue the regulation of racing. This analysis assumes the transfer of racing to TDLR will not result in a significant fiscal impact to the state and revenue collections related to the racing program will not change due to implementation of this legislation. Based on information provided by the Comptroller, this analysis assumes the average annual revenue from administrative fines related to the racing program will result in a General Revenue gain of approximately \$79,000 per fiscal year.

TDLR indicates that any other costs associated with the bill could be absorbed within the agency's existing resources. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue.

The Department of Public Safety indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 329 Real Estate Commission, 405 Department of Public Safety, 452 Dept of License & Reg

**LBB Staff:** JMc, SZ, MB, DFR, SD

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 14, 2021

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1560** by Goldman (Relating to the continuation and functions of the Texas Department of Licensing and Regulation.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1560, As Engrossed : a negative impact of (\$17,660) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	(\$21,955)
2023	\$4,295
2024	\$23,445
2025	\$23,445
2026	\$23,445

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Priv Beauty Culture Sch</i> 108	Probable Revenue Gain/(Loss) from <i>Barber School Tuition Protection</i> 5081
2022	\$62,220	(\$84,175)	(\$202,000)	(\$25,000)
2023	\$62,220	(\$57,925)	\$0	\$0
2024	\$62,220	(\$38,775)	\$0	\$0
2025	\$62,220	(\$38,775)	\$0	\$0
2026	\$62,220	(\$38,775)	\$0	\$0

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>New Barbering and Cosmetology School Tuition Protection Account</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	\$227,000	(0.5)
2023	\$0	(0.5)
2024	\$0	(0.5)
2025	\$0	(0.5)
2026	\$0	(0.5)

## **Fiscal Analysis**

The bill would continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2033.

The bill would require TDLR to perform certain inspections and complaint investigations based on risk. The bill would also authorize TDLR to use alternative inspection methods, where appropriate.

The bill would eliminate the polygraph examiners program, combative sports matchmaker, second, and event coordinator licenses. The bill would consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one. The bill eliminates the separate Barber School Tuition Protection Account and Private Beauty Culture School Tuition Protection Account and creates a single Barbering and Cosmetology School Tuition Protection Account. The bill would eliminate all wig-related licenses and state regulation of barber poles.

The bill would require TDLR to study the regulation of auctioneering and driver training, in consultation with the relevant advisory boards, and submit a report to the appropriate legislative committees by January 1, 2023 with findings and recommendations to improve public safety and the agency's processes.

The bill would transfer the licensing and regulation of residential service companies from the Texas Real Estate Commission (TREC) to be regulated within TDLR's service contract providers program.

## **Methodology**

According to TDLR, any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk parameters and any resulting inspection frequency, and the parameters and procedures for alternative inspections methods, have all been finalized and are in use. However, the agency reports any increases or decreases are expected to be minimal.

Based on information provided by TDLR, this analysis assumes that beginning in fiscal year 2022 and each year thereafter, the repeal of the Polygraph Examiners program, and the event coordinator, second, and matchmaker license types in the Combative Sports program would result in a loss of \$98,425 to General Revenue from license fees and a savings of \$62,220 to General Revenue and a decrease of 0.5 full-time-equivalent positions.

The provisions of the bill related to the barber and cosmetology program would result in a net gain of \$19,150 to General Revenue beginning in fiscal year 2024.

Based on information provided by TDLR, this analysis assumes that all residential service companies will become service contract providers regulated by TDLR and will continue to offer residential service contracts under the new registration. TDLR reports this workload is expected to be minimal and can be absorbed within existing resources. Because these companies have been regulated by TREC, a self-directed, semi-independent state agency, all registration fees have previously been deposited to that agency's account outside the State Treasury. The transfer of these entities to TDLR will result in an increase to the General Revenue Fund estimated to be \$14,250 in fiscal year 2022 and \$40,500 each fiscal year thereafter. TREC reports it would no longer collect approximately \$260,000 each year from related fees; however, this would not have a fiscal impact on the State Treasury.

TDLR indicates that any other costs associated with the bill could be absorbed within the agency's existing resources. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue.

**Note:** This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 329 Real Estate Commission,  
452 Dept of License & Reg

**LBB Staff:** JMc, SZ, DFR, MB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 16, 2021

TO: Honorable Senfronia Thompson, Chair, House Committee on Licensing & Administrative Procedures

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1560 by Goldman (relating to the continuation and functions of the Texas Department of Licensing and Regulation.), Committee Report 1st House, Substituted

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1560, Committee Report 1st House, Substituted : a negative impact of (\$17,660) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	(\$21,955)
2023	\$4,295
2024	\$23,445
2025	\$23,445
2026	\$23,445

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Priv Beauty Culture Sch</i> 108	Probable Revenue Gain/(Loss) from <i>Barber School Tuition Protection</i> 5081
2022	\$62,220	(\$84,175)	(\$202,000)	(\$25,000)
2023	\$62,220	(\$57,925)	\$0	\$0
2024	\$62,220	(\$38,775)	\$0	\$0
2025	\$62,220	(\$38,775)	\$0	\$0
2026	\$62,220	(\$38,775)	\$0	\$0

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>New Barbering and Cosmetology School Tuition Protection Account</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	\$227,000	(0.5)
2023	\$0	(0.5)
2024	\$0	(0.5)
2025	\$0	(0.5)
2026	\$0	(0.5)

## **Fiscal Analysis**

The bill would continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2033.

The bill would require TDLR to perform certain inspections and complaint investigations based on risk. The bill would also authorize TDLR to use alternative inspection methods, where appropriate.

The bill would eliminate the polygraph examiners program, combative sports matchmaker, second, and event coordinator licenses. The bill would consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one. The bill eliminates the separate Barber School Tuition Protection Account and Private Beauty Culture School Tuition Protection Account and creates a single Barbering and Cosmetology School Tuition Protection Account. The bill would eliminate all wig-related licenses and state regulation of barber poles.

The bill would require TDLR to study the regulation of auctioneering and driver training, in consultation with the relevant advisory boards, and submit a report to the appropriate legislative committees by January 1, 2023 with findings and recommendations to improve public safety and the agency's processes.

The bill would transfer the licensing and regulation of residential service companies from the Texas Real Estate Commission (TREC) to be regulated within TDLR's service contract providers program.

## **Methodology**

According to TDLR, any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk parameters and any resulting inspection frequency, and the parameters and procedures for alternative inspections methods, have all been finalized and are in use. However, the agency reports any increases or decreases are expected to be minimal.

Based on information provided by TDLR, this analysis assumes that beginning in fiscal year 2022 and each year thereafter, the repeal of the Polygraph Examiners program, and the event coordinator, second, and matchmaker license types in the Combative Sports program would result in a loss of \$98,425 to General Revenue from license fees and a savings of \$62,220 to General Revenue and a decrease of 0.5 full-time-equivalent positions.

The provisions of the bill related to the barber and cosmetology program would result in a net gain of \$19,150 to General Revenue beginning in fiscal year 2024.

Based on information provided by TDLR, this analysis assumes that all residential service companies will become service contract providers regulated by TDLR and will continue to offer residential service contracts under the new registration. TDLR reports this workload is expected to be minimal and can be absorbed within existing resources. Because these companies have been regulated by TREC, a self-directed, semi-independent state agency, all registration fees have previously been deposited to that agency's account outside the State Treasury. The transfer of these entities to TDLR will result in an increase to the General Revenue Fund estimated to be \$14,250 in fiscal year 2022 and \$40,500 each fiscal year thereafter. TREC reports it would no longer collect approximately \$260,000 each year from related fees; however, this would not have a fiscal impact on the State Treasury.

TDLR indicates that any other costs associated with the bill could be absorbed within the agency's existing resources. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue.

**Note:** This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 329 Real Estate Commission,  
452 Dept of License & Reg

**LBB Staff:** JMc, SZ, MB, DFR

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 31, 2021

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE:** **HB1560** by Goldman (Relating to the continuation and functions of the Texas Department of Licensing and Regulation.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1560, As Introduced : a positive impact of \$241,030 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	\$356,794
2023	(\$115,764)
2024	(\$186,164)
2025	(\$186,164)
2026	(\$186,164)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Auction Educ &amp; Rec Trust</i> 898	Probable Revenue Gain/(Loss) from <i>Priv Beauty Culture Sch</i> 108
2022	\$163,911	\$192,883	(\$394,733)	(\$202,000)
2023	\$163,911	(\$279,675)	\$0	\$0
2024	\$163,911	(\$350,075)	\$0	\$0
2025	\$163,911	(\$350,075)	\$0	\$0
2026	\$163,911	(\$350,075)	\$0	\$0

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from <i>Barber School Tuition Protection</i> 5081	Probable Revenue Gain/(Loss) from <i>New Barbering and Cosmetology School Tuition Protection Account</i> NEW-GR-DED	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$25,000)	\$227,000	(2.0)
2023	\$0	\$0	(2.0)
2024	\$0	\$0	(2.0)
2025	\$0	\$0	(2.0)
2026	\$0	\$0	(2.0)

## **Fiscal Analysis**

The bill would continue the Texas Department of Licensing and Regulation (TDLR) until September 1, 2033.

The bill would eliminate the auctioneers program, polygraph examiners program, combative sports matchmaker, event coordinator and second licenses. The bill would consolidate Texas' regulation of barbers and cosmetologists, and administer the two programs as one. The bill eliminates the separate Barber School Tuition Protection Account and Private Beauty Culture School Tuition Protection Account and creates a single Barbering and Cosmetology School Tuition Protection Account. The bill would eliminate all wig-related licenses and state regulation of barber poles.

The bill would eliminate the separate drug and alcohol driving awareness course and associated licenses, the separate specialized driving safety course and associated licenses, the separate driving safety course for drivers under 25 years old, the redundant driving safety school license and the driving safety instructor license. The bill would require a memorandum of understanding to facilitate better coordination between TDLR and the Department of Public Safety (DPS).

The bill would require TDLR to perform inspections based on risk instead of on a periodic basis. The bill would also authorize TDLR to use alternative inspection methods, where appropriate.

## **Methodology**

According to TDLR, any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk parameters and any resulting inspection frequency, and the parameters and procedures for alternative inspections methods, have all been finalized and are in use. However, the agency reports any increases or decreases are expected to be minimal.

Based on information provided by TDLR, this analysis assumes that beginning in fiscal year 2022 and each year thereafter, the repeal of the Auctioneers program, Polygraph Examiners program, and the event coordinator, second, and matchmaker license types in the Combative Sports program would result in a loss of \$201,850 to General Revenue from license fees and a savings of \$163,911 to General Revenue and a decrease of 2.0 full-time-equivalent positions. Repealing the Auctioneers program would also result in a gain to the General Revenue Fund of approximately \$394,000 in fiscal year 2022 from the transfer of the balance of the Auctioneer Education and Recovery Fund into the General Revenue Fund.

Beginning in fiscal year 2023, and each year thereafter, the provisions of the bill would also result in a loss of \$200,325 to General Revenue from license fees related to changes to the barber, cosmetology, and driver education programs. The provisions of the bill related to the barber, cosmetology, and driver education programs would also result in a gain of \$122,500 to General Revenue in fiscal 2023 and \$52,100 each fiscal year thereafter.

TDLR indicates that any other costs associated with the bill could be absorbed within the agency's existing resources. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee-generated revenue.

DPS indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

**Note:** This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 452 Dept of License & Reg

**LBB Staff:** JMc, SZ, MB, DFR, SD